

**THE DEPARTMENT OF HEALTH
AND ENVIRONMENTAL CONTROL**

DIRECT TESTIMONY AND EXHIBITS

OF

R. LEE PROCTOR

RECEIVED

AUG 03 2005

**PSC SC
MAIL / DMS**



DOCKET NO. 2005-110-WS

**Petition of the Office of Regulatory Staff to
Request Forfeiture of the Bond and to Request
Authority to Petition the Circuit Court for
Appointment of a Receiver**

1

2

TESTIMONY OF R. LEE PROCTOR

3

FOR

4

THE DEPARTMENT OF HEALTH & ENVIRONMENTAL CONTROL

5

DOCKET NO. 2005-110-WS

6

IN RE: PINEY GROVE UTILITIES, INC.

7

8

Q. PLEASE STATE YOUR NAME, BUSINESS ADDRESS AND OCCUPATION.

9

10

A. My name is Robert Lee Proctor, and my business address is 2600 Bull Street,

11

Columbia, SC, 29201. I am employed by the South Carolina Department of Health and

12

Environmental Control (DHEC or the Department) as a Project Manager in the Water

13

Pollution Enforcement Section of the Bureau of Water.

14

Q. CAN YOU DESCRIBE YOUR RESPONSIBILITIES AS A PROJECT

15

MANAGER OF THE BUREAU OF WATER POLLUTION ENFORCEMENT

16

SECTION?

17

A. I receive referrals for formal enforcement action from compliance and district staff

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members, review them for accuracy, determine the best course of action, hold

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enforcement conferences, draft and negotiate Consent Orders, draft Administrative

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Orders, and track Order compliance. I also determine civil penalties based on the

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severity of the violation(s) and the potential for harm to the environment and the health of

22

the citizens of the State as mitigated by the cooperation and concern evidenced by a

23

violator.

1 **Q. PLEASE STATE YOUR EDUCATIONAL BACKGROUND AND**
2 **EXPERIENCE. HOW LONG HAVE YOU BEEN EMPLOYED BY THE**
3 **DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL?**

4 A. I have an Associate Degree of Science from the University of South Carolina and
5 have been employed by the Department for 12 ½ years. The first years with DHEC, I
6 spent in the District office inspecting wastewater treatment facilities (WWTFs) and
7 determining compliance by various entities with the requirements of their individual
8 National Pollutant Discharge Elimination System (NPDES) Permit and State and Federal
9 Regulations.

10 **Q. HAVE YOU COMPLETED ADDITIONAL TRAINING AND/OR**
11 **EDUCATION SINCE YOUR GRADUATION FROM HIGH SCHOOL? IF SO,**
12 **PLEASE LIST COURSEWORK AND DATES OF TRAINING.**

13 A. Yes, I attended the University of SC-Lancaster Campus from August 1986 until June
14 1988 when I graduated with an Associate Degree. I then attended the University of SC-
15 Conway Campus (now Coastal Carolina University) from August 1988 until December
16 1990 studying Marine Biology but I did not complete my degree. I have also completed
17 the Sacramento Course for WWTF operations through advanced WW Treatment and the
18 two Sacramento Courses on wastewater collection system (WWCS) operations and
19 maintenance.

20 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY INVOLVING PINEY**
21 **GROVE UTILITIES, INC. FOR THIS PROCEEDING?**

22 A. The purpose of my testimony is to set forth my findings relative to enforcement
23 referrals and enforcement actions against the utility for wastewater systems. Specifically,

1 I will focus on the facility's environmental compliance record, the enforcement actions
2 taken, and the facility's compliance with those consent orders, emergency orders,
3 administrative orders, and court orders at the Lloydwood subdivision and the Franklin
4 Park subdivision.

5 **Q. HOW LONG HAVE YOU BEEN THE ENFORCEMENT OFFICER OVER**
6 **THE PINEY GROVE UTILITIES, INC.'S SEWER SYSTEMS LOCATED AT**
7 **THE LLOYDWOOD AND FRANKLIN PARK SUBDIVISIONS?**

8 A. Since January 2005.

9 **Q. ARE YOUR FINDINGS SET FORTH IN YOUR TESTIMONY AND**
10 **ATTACHED EXHIBITS?**

11 A. Yes.

12 **Q. PLEASE EXPLAIN HOW YOU COMPILED INFORMATION FOR YOUR**
13 **REVIEW OF PINEY GROVE.**

14 A. I used information provided by the facility's compliance officer regarding routine on-
15 site evaluations and sampling along with on-site visits associated with complaints. I also
16 consulted with and used information from other DHEC staff, wastewater treatment
17 facility operators, and plumbing companies. In addition, I reviewed PGU's NPDES
18 permits, discharge monitoring reports, and facility reports, which are all maintained as
19 part of the PGU compliance and enforcement files in the normal course of business.

20 **Q. PLEASE DESCRIBE YOUR UNDERSTANDING OF THE ENFORCEMENT**
21 **ACTIONS TAKEN IN REGARDS TO THE SEWER SYSTEMS THAT ARE**
22 **OWNED BY PINEY GROVE UTILITIES, INC. BEGINNING WITH THE FIRST**

1 **ENFORCEMENT ACTION THROUGH AUGUST 2, 2005, THE DATE OF THIS**
2 **TESTIMONY.**

3 A. Franklin Park Subdivision WWTF: In January 1, 2000, Mr. Reese Williams took over
4 ownership of PGU, which included this WWTF. On August 28, 2000, Department staff
5 executed a Consent Agreement (CA) with PGU (Exhibit RLP 1). The CA did not contain
6 a civil penalty but required the submission of a corrective action plan (CAP) to address
7 upgrading the facility to meet effluent limits on the NPDES Permit. The CAP submitted
8 by PGU recommended the installation of power and aeration at the facility. To date, PGU
9 has not complied with either the CA or the CAP.

10 Lloydwood Subdivision WWTF: On July 6, 1999, the Honorable James W. Johnson Jr.
11 of the Eleventh Judicial Circuit, ordered PGU to comply with the terms of Consent Order
12 94-002-W (Exhibit RLP 2), which required PGU to obtain an agreement with the City of
13 Cayce for the elimination of the discharge from the WWTF, submit approvable plans and
14 specifications to the Department for a permit to construct, construct the necessary
15 appurtenances and eliminate the discharge, properly close out the WWTF and payment of
16 a civil penalty in the amount of \$5,500.00.

17 An enforcement conference was held on April 24, 2001 to address violations of the Court
18 Order and PGU's failure to connect to the Regional provider, effluent limits violations for
19 ammonia-nitrogen, biochemical oxygen demand, fecal coliform bacteria and flow in
20 conduit (Exhibit RLP 3).

21 On May 2, 2002, while working as a compliance project manager, I referred PGU for
22 formal action for failure to comply with the effluent discharge limits for ammonia-
23 nitrogen, biochemical oxygen demand and dissolved oxygen. The referral also included

1 violations of the operation and maintenance requirements of the NPDES Permit and
2 failure to comply with Consent Order 94-002-W and the Judges Order of December 18,
3 2000.

4 On December 19, 2002, the Department executed Administrative Order 02-268-W
5 (Exhibit RLP 4), which required PGU to seek PSC approval of a contract with the
6 regional provider, submit plans and specifications for a permit to construct, submit a
7 closure plan for the WWTF and pay a civil penalty in the amount of 37-024.00. The
8 Respondent appealed the Order and eventually Consent Order of Dismissal 04-007-W
9 was executed (Exhibit RLP 5), which required PGU to do everything the AO required
10 except pay the penalty, which was reduced to \$31,024.00 and suspended pending
11 completion of the Order requirements. To date, PGU has not complied with the Consent
12 Order of Dismissal.

13 On October 21, 2004, PGU was referred for formal action, this time for numerous
14 unauthorized discharges of untreated wastewater from the WWCS, failure to properly
15 report the discharges and the improper operation and maintenance of the WWCS. Carl
16 Zwerling and I held an enforcement conference with PGU on February 18, 2005. PGU
17 refused to sign a Consent Order in this matter and AO 05-076-W was executed on June
18 29, 2005 (Exhibit RLP 6). The AO requires PGU to comply with State and Federal
19 regulations; provide proper notification to the Department of all sewer system overflows
20 (SSOs); develop and implement a capacity, Management, Operation and Maintenance
21 (cMOM) program; correct all deficiencies within the WWCS submit semi-annual reports
22 of corrective actions completed; and, pay a civil penalty in the amount of \$62,460.00.
23 PGU has not appealed or complied with this Order.

1 On February 28, 2005, Department staff received a facsimile from Keith Murphy stating
2 that EA Services would no longer operate PGU's Lloydwood SD WWTF after March 1,
3 2005 due to non-payment for services. On March 1, 2005, Department staff requested, by
4 letter to PGU, the name of the operator for the system, their grade and certification
5 number (Exhibit RLP 7). To date a response has not been received. Based on fecal
6 coliform bacteria sample results (Exhibit RLP 8), the Department issued Emergency
7 Order 05-040-W (Exhibit RLP 9) and posted the receiving stream as contaminated on
8 April 14, 2005. The Emergency Order required PGU to immediately hire an operator of
9 appropriate grade and notify the Department of their grade and certification number and
10 to immediately comply with State and Federal regulations. To date, PGU has not
11 complied with this Order either. On April 22, 2005, the Department filed a complaint
12 with the Court of Common please for the Eleventh Judicial Circuit requesting an
13 injunction from the court to allow the Department or a certified operator hired by the
14 Department to enter the WWTF by whatever means to properly operate the WWTF
15 systems in accordance with the NPDES Permit for a period of fourteen (14) day or until
16 such time as PGU hires a certified operator of appropriate grade and such operator begins
17 daily operation and maintenance of the WWTF whichever occurs later; PGU delivers
18 written notice of such hiring to the Department; an order requiring the Respondent to pay
19 user fees collected for the Lloydwood WWTF to the Court to be held in escrow to cover
20 the cost of proper operation and maintenance of the Lloydwood WWTF systems; for
21 reasonable attorneys fees and court cost; and, for such other relief as this Court deems
22 just and reasonable. The Court granted the Department one (1) week which was later
23 extended to the two (2) weeks at the request of PGU. A second Court hearing scheduled

1 for May 6, 2005 , resulted in a pretrial agreement allowing the Department to appoint a
2 receiver for the WWTF if PGU could not find an operator by 5:00 PM on Monday, May
3 8, 2005. PGU was unable to find an operator and the Department continues to pay an
4 operator to run the WWTF while it tries to locate a receiver for the WWTF (all filings on
5 this matter, Exhibit RLP 10).

6 On May 4, 2005, I issued a NOEC/NOAV (Exhibit RLP 11) to PGU regarding its failure
7 to provide an operator of appropriate grade since March 1, 2005 to perform daily visits
8 and properly operate and maintain the WWTF. The NOEC/NOAV scheduled an
9 enforcement conference for June 1, 2005 and contained a proposed Consent Order for
10 PGU's consideration. Representatives for PGU attended a very brief enforcement
11 conference on June 1, 2005 and stated that they would not sign a PCO in this matter.

12 On June 29, 2005, the Department executed AO 05-077-W (Exhibit RLP 11) against
13 PGU requiring PGU to pay a civil penalty in the amount of \$4,305,131.52. PGU has not
14 appealed or complied with this Order. On July 29, 2005, the Department issued a notice
15 of violation for failure to comply with Consent Order of Dismissal 04-007-W (Exhibit
16 RLP 12).

17 **Q. WHAT IS THE TOTAL SUM THAT HAS BEEN LEVIED AGAINST THE**
18 **UTILITY IN CIVIL PENALTIES FOR VIOLATIONS AT THESE TWO**
19 **FACILITIES? HOW MUCH HAS BEEN ACTUALLY PAID TO THE**
20 **DEPARTMENT?**

21 A. PGU owes \$5,500.00 that was court ordered; an additional \$31,0424.00 was
22 suspended in Consent Order of Dismissal 04-007-W. PGU is in violation of that order
23 and that amount is now due. \$4,367,591.52 is pending in two Administrative Orders.

1 **Q. DO YOU HAVE ANY ADDITIONAL COMMENTS ABOUT THE SEWER**
2 **SYSTEMS OF PINEY GROVE UTILITIES, INC. AND HOW THEY HAVE BEEN**
3 **OPERATED BY THE MANAGEMENT OF PINEY GROVE UTILITIES, INC.?**

4 A. The systems are poorly operated, maintained and managed with little to no
5 responsiveness. In addition, the former operator at Franklin Park WWTF has
6 voluntarily surrendered her wastewater treatment operator license in part for reporting
7 incorrect or incomplete information at that facility (Exhibit RLP 13).

8 **Q. DOES THAT CONCLUDE YOUR TESTIMONY?**

9 A. Yes it does.

10

11

12

13

14



2600 Bull Street
Columbia, SC 29201-1708

August 29, 2000

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CERTIFIED MAIL- RESTRICTED DELIVERY 7099 3220 0008 7893 1495
RETURN RECEIPT REQUESTED

Mr. Reece Williams
2 Fifth Ave
Charleston, SC 29403

Re: Consent Agreement 00-167-W
Piney Grove Utilities, Inc./Franklin Park Subdivision
NPDES Permit SC0031399
Richland County

Dear Mr. Williams:

Enclosed, please find a copy of the fully-executed Consent Agreement 00-167-W for Piney Grove Utilities, Inc./Franklin Park Subdivision. **The Agreement is considered executed on August 28, 2000**

Please be aware of the *force majeure* language in the Order. If any event occurs which may cause a delay in meeting any of the scheduled dates in the Agreement, then **you must notify the Department in writing at least one (1) week before the scheduled date**, describing the cause of the delay and the expected date of completion. If the Department concurs that the event arose from conditions which were beyond your control, then an extension to the scheduled date may be granted.

If you have any questions, please call me at (803) 898-4261.

Sincerely,

Anastasia Hunter-Shaw
Water Enforcement Division
Bureau of Water

Enclosure

cc: Thomas Jones, Water Enforcement Division, w/enclosure
Mike Montebello, Domestic WW Permitting, w/enclosure
Larry Boland, Central Midlands EQC District Office, w/enclosure

EXHIBIT RLP 1

**THE STATE OF SOUTH CAROLINA
BEFORE THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL**

**IN RE: PINEY GROVE UTILITIES/FRANKLIN PARK SUBDIVISION
RICHLAND COUNTY**

**CONSENT AGREEMENT
00-167-W**

Piney Grove Utilities (Respondent) owns and is responsible for the proper operation and maintenance of a wastewater treatment facility (WWTF) which serves Franklin Park Subdivision located in Richland County, South Carolina.

A review of the Respondent's file by the South Carolina Department of Health and Environmental Control (Department) revealed violations of the Pollution Control Act and National Pollutant Discharge Elimination System (NPDES) Permit SC0031399 in that the Respondent exceeded the permitted discharge limits for biochemical oxygen demand (BOD), fecal coliform bacteria, flow, and total suspended solids (TSS).

In accordance with approved procedures, and based on discussions with the Respondent on July 27, 2000, the parties have agreed to the issuance of this Order to include the following Findings of Fact and Conclusions of Law.

FINDINGS OF FACT

1. NPDES Permit SC0031399, effective July 1, 1994, allows the Respondent to discharge treated wastewater to Cabin Branch to Myers Creek to the Congaree River in strict compliance with the terms, limitations, and requirements of the permit. The permit

contains a requirement for elimination of the discharge from the WWTF within ninety (90) days of notification by the Department that regional sewer is available. The permit also requires closure of the WWTF within one hundred eighty (180) days of connection to regional sewer.

2. On May 25, 1999, the Department issued a Notice of Violation to the Respondent for exceeding the permitted discharge limits for BOD and TSS during the May 1, 1998, through January 31, 1999, monitoring periods. In a letter dated June 7, 1999, the Respondent replied that there has only been a flow from the facility for the past eighteen (18) months. The Respondent indicated that it had contracted an engineering firm to assist with corrective action.
3. The following is a list of operation and maintenance (O&M) and compliance sampling inspections (CSI) conducted by the Department between January 1, 1998, and June 30, 1999, the rating of the facility, and the deficiencies noted:

<u>Inspection Date</u>	<u>Type</u>	<u>Rating</u>	<u>Deficiencies</u>
January 12, 1998	O&M	Unsatisfactory	Water overflowing baffles
January 14, 1998	CSI	Noncompliant	Flow, fecal coliform
January 11, 1999	CSI	Noncompliant	BOD, fecal coliform
June 2, 1999	O&M	Satisfactory	None

4. A review of DMRs submitted to the Department by the Respondent for the April 1, 1998, through June 30, 1999, monitoring periods has revealed the following violations of permitted effluent limits:

BOD - May, September, and December 1998; January and June 1999.

TSS - September and December 1998; January and March 1999.

4. On July 27, 2000, the Department held a conference with the Respondent. The Respondent indicated that it had purchased the facility from the former owner in March 2000. The Respondent indicated a willingness to cooperate fully with the Department in bringing the facility into compliance.

CONCLUSIONS OF LAW

Based upon the above Findings of Fact, the Department has reached the following Conclusions of Law:

1. The Respondent violated the Pollution Control Act, S.C. Code Ann. § 48-1-110(d), (Supp. 1999), and Water Pollution Control Permits, 25 S.C. Code Ann. Regs. 61-9.122.41(a)(1) (Supp. 1999), in that it violated the permitted discharge limits for BOD, fecal coliform bacteria, flow, and TSS.
2. The Pollution Control Act, S.C. Code Ann. § 48-1-330 (1987), provides for a civil penalty not to exceed ten thousand dollars (\$10,000.00) per day of violation for anyone violating the Act or any rule, regulation, permit, permit condition, final determination, or order of the Department.

NOW, THEREFORE, IT IS ORDERED, CONSENTED TO AND AGREED, pursuant to the Pollution Control Act, S.C. Code Ann. §§ 48-1-50, 100 (1987), that the Respondent shall:

1. Immediately begin and continue to operate and maintain the WWTF in accordance with applicable State and Federal regulations.
2. Within thirty (30) days of the execution of this Order, submit to the Department a corrective action plan (CAP) detailing improvements that will be made to the WWTF for

the purpose of meeting the permitted discharge limits. The CAP shall contain a schedule of implementation which, upon Department approval, shall be incorporated into and become an enforceable part of this Order.

THEREFORE IT IS FURTHER AGREED that if any event occurs which causes or may cause a delay in meeting any of the above scheduled dates for completion of any specified activity, the Respondent shall notify the Department in writing at least one (1) week before the scheduled date, describing in detail the anticipated length of the delay, the precise cause or causes of delay, if ascertainable, the measures taken or to be taken to prevent or minimize the delay, and the timetable by which those measures will be implemented.

The Department shall provide written notice as soon as practicable that a specified extension of time has been granted or that no extension has been granted. An extension shall be granted for any scheduled activity delayed by an event of *force majeure*, which shall mean any event arising from causes beyond the control of the Respondent that causes a delay in or prevents the performance of any of the conditions under this Consent Order including, but not limited to:

- a) acts of God, fire, war, insurrection, civil disturbance, explosion; b) adverse weather condition that could not be reasonably anticipated causing unusual delay in transportation and/or field work activities, c) restraint by court order or order of public authority; d) inability to obtain, after exercise of reasonable diligence and timely submittal of all applicable applications, any necessary authorizations, approvals, permits, or licenses due to action or inaction of any governmental agency or authority; and e) delays caused by compliance with applicable statutes or regulations governing contracting, procurement or acquisition procedures, despite the exercise of reasonable diligence by the Respondent.

Events which are not *force majeure* include by example, but are not limited to, unanticipated or increased costs of performance, changed economic circumstances, normal precipitation events, or any person's failure to exercise due diligence in obtaining governmental permits of fulfilling contractual duties. Such determination will be made in the sole discretion of the Department. Any extension shall be incorporated by reference as an enforceable part of this Consent Order and thereafter be referred to as an attachment to the Consent Order.

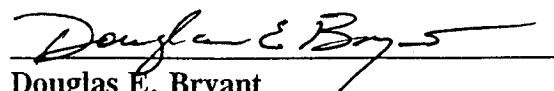
PURSUANT TO THIS ORDER, all requirements to be submitted to the Department shall be addressed as follows:

Anastasia Hunter-Shaw
Bureau of Water-Enforcement Division
S.C. Department of Health and Environmental Control
2600 Bull Street
Columbia, S.C. 29201

The Respondent shall confirm, in writing, completion of Order requirements to the above address within five (5) days of completion.

IT IS FURTHER ORDERED AND AGREED that failure to comply with any provision of this Order shall be grounds for further enforcement action pursuant to S.C. Code Ann. § 48-1-330 *Pollution Control Act* (1987), to include the assessment of civil penalties.

**THE SOUTH CAROLINA DEPARTMENT OF
HEALTH AND ENVIRONMENTAL CONTROL**


Douglas E. Bryant
Commissioner

DATE: _____

8/28/00

Alton C. Boozer
Alton C. Boozer, Chief
Bureau of Water

DATE: 8/24/00

WE CONSENT:

J. Lee Whitford
Piney Grove Utilities

DATE: 9/21/2000

Robert G. McAllister
Attorney for Department

DATE: 8/24/2000

Valerie A. Betterton
Valerie A. Betterton, Director
Water Enforcement Division

DATE: 8/24/2000

STATE OF SOUTH CAROLINA
COUNTY OF LEXINGTON

JUDGMENT IN A CIVIL CASE

IN THE COURT OF COMMON PLEAS

CASE NO. 98 -CP-32- 309

South Carolina Department
of Health and Environmental
Control

PLAINTIFF(S)

Piney Grove Utilities
Inc

DEFENDANT(S)

CHECK ONE:

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☐ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ☐ **ACTION DISMISSED (CHECK REASON):** ☐ Rule 12(b), SCRPC; ☐ Rule 41(a), SCRPC (Vol. Nonsuit); ☐ Rule 43(k), SCRPC (Settled); ☐ Other- _____
- ☐ **ACTION STRICKEN (CHECK REASON):** ☐ Rule 40(j) SCRPC; ☐ Bankruptcy; ☐ Other- _____

IT IS ORDERED AND ADJUDGED: ☒ See attached order; ☐ Statement of Judgment by the Court.

RECEIVED

JUL 19 1999

REC
OFFICE OF GENERAL COUNSEL

Dated at _____, South Carolina, this _____ day of _____, 19____.

PRESIDING JUDGE

This judgment was entered on the 11A day of 11A, 1999, and a copy mailed first class this 15 day of Jul, 1999 to attorneys of record or to parties (when appearing pro se) as follows:

Alex Skissian

ATTORNEY(S) FOR THE PLAINTIFF(S)

Louis H Long

ATTORNEY(S) FOR THE DEFENDANT(S)

Thomas H. Long
CLERK OF COURT

STATE OF SOUTH CAROLINA)
) IN THE COURT OF COMMON PLEAS
) C/A No.:98-CP-32-309
COUNTY OF LEXINGTON)

SOUTH CAROLINA DEPARTMENT OF)
HEALTH AND ENVIRONMENTAL CONTROL,)

Plaintiff,)

-v-)

PINEY GROVE UTILITIES, INC.,)

Defendant.)

ORDER GRANTING
PLAINTIFF'S MOTION FOR
SUMMARY JUDGMENT

FILED
JUL 6 12 09 PM '99
THOMAS
CLERK
LEX

This case comes before me on Plaintiff SCDHEC's motion for summary judgment. After careful consideration, I conclude that Plaintiff's motion should be granted.

Plaintiff has brought this action to enforce Consent Order 94-002-W. If a party is aggrieved by the issuance of an agency order, then they may appeal this order to the Administrative Law Judge within 15 days of its issuance. S.C. Code Regs. R. 61-72, (Law. Co-op. 1991), Contested Cases. If they fail to appeal this order within the appropriate time period, the agency decision becomes final and enforceable as a matter of law. All matters which could have been brought up in a timely appeal of an agency decision then become barred by the operation of *res judicata*. Perry v. State Law Enforcement Div., 310 S.C. 558, 426 S.E. 2d 334 (Ct. App. 1992); Bennett v. S.C. Dept. of Corrections, 305 S.C. 310, 408 S.E. 2d 230 (1991). Defendant Piney Grove Utilities, Inc. entered into this Consent Order and did not appeal the Order within the 15 day appeal period. Consent Order 94-002-W is final and enforceable as a matter of law.

Therefore, this Court issues its Order requiring the Defendant, Piney Grove Utilities, Inc. to comply with the provisions of CO 94-002-W. The Defendant shall:

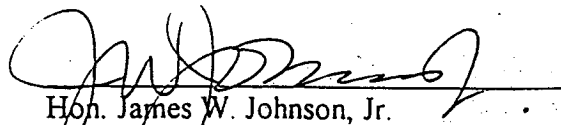
1) Within sixty (60) days of the execution date of the Order, obtain an agreement with the City of Cayce for elimination of the discharge to the Hwy 321 Regional Sewer/Cayce forcemain which will be constructed along US 321 by July 15, 1999.

2) Within one hundred twenty (120) days of the execution date of the Order, submit to the Department approvable plans and specifications and an application for a permit to construct to eliminate the discharge to the Hwy 321 Regional Sewer/Cayce forcemain. These plans shall include as required, but shall not necessarily be limited to, construction of a pump station and a force main in accordance with S.C. Code Regs 61-67 and Cayce's specifications.

3) Within ninety (90) days of issuance of a permit to construct by the Department, the Defendant shall complete construction and eliminate the discharge.

4) Within one hundred eighty (180) days of elimination of the discharge, the Defendant shall complete close-out of the onsite waste treatment lagoon in accordance with the requirements of the Department.

AND IT IS SO ORDERED.


Hon. James W. Johnson, Jr.
Presiding Judge
Eleventh Judicial Circuit

RECEIVED

DEC 19 2000

IMPORTANT NOTICE

DHEC
OFFICE OF GENERAL COUNSEL

Any Petition for Rehearing filed should be received in the Clerk's office within 15 days exclusive of date of filing. (Postmark date is not acceptable.) If the 15th day falls on a Saturday, Sunday or legal holiday, the Petition may be filed the next working day. Petition for Rehearing in this case must be in the Clerk's office by 5:00 P.M., on DEC 15 2000. If received after the due date, the Petition will be returned. If a Petition for Rehearing is not filed, the remittitur is sent the 16th day.

ORIGINAL AND SIX (6) COPIES
REQUIRED

REMITTITUR DATE:
JAN 9 2001

\$25.00 FILING FEE
REQUIRED



2600 Bull Street
Columbia, SC 29201-1708

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April 11, 2001

CERTIFIED MAIL 7099 3400 0003 6622 0562
RETURN RECEIPT REQUESTED

Mr. Reece Williams
Piney Grove Utilities, Inc.
2 Fifth Ave
Charleston, SC 29403

Re: **NOTICE OF ENFORCEMENT CONFERENCE/NOTICE OF VIOLATION**
Piney Grove Utilities, Inc./Lloydwood S/D
NPDES Permit SC0031402
Lexington County

Suspense
Rescheduled Conf
Add "meeting"
on 4/24/01

Dear Mr. Williams:

Enclosed is a Notice of Enforcement Conference/Notice of Violation issued by the S.C. Department of Health and Environmental Control for the reasons explained therein. This informal conference will provide you with the opportunity to disprove the alleged violations and to present any extenuating information which may mitigate the gravity of the violations.

Also enclosed is informational material entitled "A Guide through the Administrative Enforcement Process". This guide has been designed to answer the questions asked most often about enforcement processes. It is hoped that this information will be beneficial.

If you have any questions regarding this matter, please contact me at (803) 898-4261.

Sincerely,

Anastasia Hunter-Shaw
Water Enforcement Division
Bureau of Water

Enclosure

cc: Amy Stepp, Water Enforcement Division
Larry Boland, Central Midlands EQC District
Mike Montebello, Domestic WW Permitting

EXHIBIT RLP 3

STATE OF SOUTH CAROLINA
BEFORE THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

IN RE: PINEY GROVE UTILITIES, INC.
LLOYDWOOD SUBDIVISION
LEXINGTON COUNTY

NOTICE OF ENFORCEMENT CONFERENCE/NOTICE OF VIOLATION

YOU ARE HEREBY NOTIFIED that an enforcement conference has been scheduled for Tuesday, April 24, 2001, at 2:00 P.M. in Room 4380 of the Aycock Building, 2600 Bull Street, Columbia, South Carolina. *Due to the installation of a new security system, all visitors must enter the building through the main lobby on the Bull Street side of the complex. You will be required to sign a Visitor's Log and receive a Visitor's Badge before entering the building.* Representatives of Piney Grove Utilities, Inc. have the opportunity to be present at this conference to demonstrate why an Administrative Order should not be issued finding you in violation of the Pollution Control Act, and assessing a monetary penalty.

Representatives of Piney Grove Utilities, Inc. may be accompanied at the conference by legal and/or technical counsel.

This Notice is based on the attached findings.

From the enclosed facts, the Department has reached the following Conclusions of Law:

1. The Respondent violated the Pollution Control Act, S.C. Code Ann. § 48-1-110(d) (Supp. 2000), and Water Pollution Control Permits, 24 S.C. Code Ann. Regs. 61-69.122.41(a) (1) (Supp. 2000), in that it violated the permitted discharge limits for ammonia-nitrogen, BOD, and flow as specified in Part I.A.1 of the NPDES permit.
2. The Respondent violated the Water Pollution Control Permits, 24 S.C. Code Ann. Regs. 61-69.122.41(a) (Supp. 2000), in that it failed to comply with the schedule of compliance contained in Part I.D.1 of the NPDES permit by failing to eliminate the discharge from the WWTF by connection to regional sewer.

These violations subject it to the assessment of civil penalties as authorized by the Pollution Control Act, S.C. Code Ann. § 48-1-330 (1987).

YOU ARE FURTHER NOTIFIED that your failure to attend the scheduled conference will likely result in the issuance of an Administrative Order without your consent.

This Notice is issued pursuant to the Pollution Control Act, S.C. Code Ann. § 48-1-50 (1987), which authorizes the Department to issue orders and assess monetary penalties.

FINDINGS OF FACT

1. Piney Grove Utilities, Inc. (Respondent) owns and is responsible for the proper operation and maintenance of a wastewater treatment facility (WWTF) serving Lloydwood Subdivision located in Lexington County, South Carolina. The Respondent has owned the WWTF since March 2000.
2. The South Carolina Department of Health and Environmental Control (Department) issued National Pollutant Discharge Elimination System (NPDES) permit authorizing the Respondent to discharge treated wastewater to an unnamed tributary to Dry Creek in strict compliance with the terms, conditions and requirements of the permit.
3. The WWTF has been identified through the 201/208 planning process for elimination by connection to a regional sewer system. The NPDES permit prescribes a schedule of compliance which requires the Respondent to connect to a regional sewer system and cease discharging within ninety (90) days of notification by the Department that a regional sewer system is available.
4. The Respondent's WWTF was rated noncompliant due to violations of the permitted discharge limits for ammonia-nitrogen ($\text{NH}_3\text{-N}$) during a Department Compliance Sampling Inspection (CSI) performed on April 17, 2000.
5. The Respondent's WWTF was rated noncompliant due to violations of the permitted discharge limits for $\text{NH}_3\text{-N}$, biochemical oxygen demand (BOD), and fecal coliform bacteria during a Department CSI performed on September 18, 2000.
6. A review of DMRs submitted by the Respondent for the March 1, 2000, through February 28, 2001, monitoring periods has revealed the following violations of the permitted discharge limits:

$\text{NH}_3\text{-N}$ - March, April, May, June, July, September, October, November and December 2000, January and February 2001;

BOD - August, September, October and November 2000;

Flow - March and May 2000.

(Domestic Mail Only; No Insurance Coverage Provided)

Article Sent To:

Postage \$

Certified Fee

Return Receipt Fee
(Endorsement Required)

**Restricted Delivery Fee
(Endorsement Required)**

Total Postage & Fees \$

Postmark
Here

4/11/01

Name (Please Print Clearly) (to be completed by mailer)

Street, Apt. No.; or PO Box No.

City, State, ZIP+4

PS Form 3800, July 1999

See Reverse for Instructions

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Mr. Reece Williams
Piney Grove Utilities, Inc.
2 Fifth Avenue
Charleston, S.C.

2. Article Number (Copy from service label)

7099 3400 0003 6622 0862

PS Form 3811, July 1999

Domestic Return Receipt

COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly)

B. Date of Delivery

C. Signature

x

☐ Agent

☐ Addressee

D. Is delivery address different from item 1? ☐ Yes

If YES, enter delivery address below: ☐ No

3. Service Type

☒ Certified Mail

☐ Express Mail☐ Registered

Return Receipt for Merchandise

☐ Insured Mail☐ C.O.D.

4. Restricted Delivery? (Extra Fee)

☐ Yes



April 26, 2001

2600 Bull Street
Columbia, SC 29201-1708

COMMISSIONER:
Douglas E. Bryant

CERTIFIED MAIL
RETURN RECEIPT REQUESTED 7099 3220 0008 3922 7674

BOARD:
Bradford W. Wyche
Chairman

William M. Hull, Jr., MD
Vice Chairman

Mark B. Kent
Secretary

Howard L. Brilliant, MD

Brian K. Smith

Louisiana W. Wright

Larry R. Chewning, Jr., DMD

Mr. Reece Williams
2 Fifth Ave.
Charleston, SC 29403

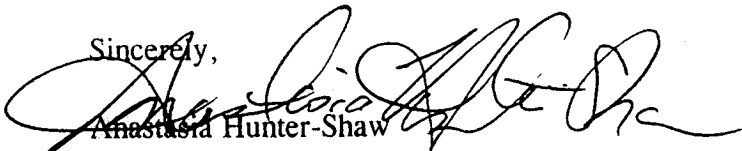
Re: Enforcement Conference Rescheduled
Piney Grove Utilities, Inc./Lloydwood S/D

Dear Mr. Williams:

As requested, the enforcement conference previously scheduled for April 24, 2001, has been rescheduled. The conference will be held on May 9, 2001, at 1:00 P.M. in room 4380 of the Aycock Building at 2600 Bull Street, Columbia, SC.

Should you have any questions, you may call me at (803)898-4261. I will be glad to assist you.

Sincerely,



Anastasia Hunter-Shaw
Water Enforcement Division
Bureau of Water

cc: Louis H. Lang, Esq., Callison, Tighe & Robinson, LLP
Larry Boland, Central Midlands District Office
Tracey Wilkes, Central Midlands District Office
Mike Montebello, Domestic WW Permitting



Book

December 30, 2002

2600 Bull Street
Columbia, SC 29201-1708

COMMISSIONER:
C. Earl Hunter

CERTIFIED MAIL 7001 2510 0008 8171 2072
RETURN RECEIPT REQUESTED

BOARD:
Bradford W. Wythe
Chairman

Mark B. Kent
Vice Chairman

Howard L. Brilliant, MD
Secretary

Carl L. Brazell

Louisiana W. Wight

L. Michael Blackmon

Lawrence R. Chewning, Jr., DMD

Mr. Reece Williams
Piney Grove Utilities, Inc.
2 Fifth Avenue
Charleston, SC 29403

Re: Administrative Order 02-268-W
Piney Grove Utilities, Inc./Lloydwood Subdivision
NPDES Permit SC0031402
Lexington County

Dear Mr. Williams:

Enclosed is the fully executed Administrative Order 02-268-W affecting Piney Grove Utilities, Inc./Lloydwood Subdivision. The Order is considered executed on December 19, 2002.

In accordance with approved procedures, you have the right to request an adjudicatory hearing to contest the issuance of this Order. Procedures for making a hearing request are outlined on pages 6 and 7 of the Order. **The request for a contested case must be received by the Clerk of the Board of Health and Environmental Control within fifteen (15) calendar days of your receipt of this Order, at the following address:**

Department of Health and Environmental Control
2600 Bull Street
Columbia, S.C. 29201

In addition, the Administrative Law Judge Division requires that a person requesting a contested case hearing must file a copy of the request and a filing fee in the amount of one hundred dollars (\$100.00) with the Administrative Law Judge at the following address:

Clerk, Administrative Law Judge Division
1205 Pendleton Street, Suite 224
P.O. Box 11667
Columbia, SC 29211

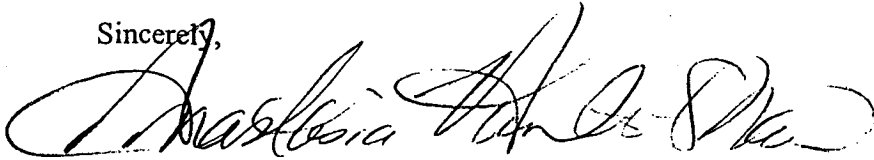
If a hearing is not requested within fifteen (15) calendar days of your receipt of this Order, the Order will become final as written. Any failure to comply with the established deadlines will then be deemed a violation of the Pollution Control Act, S.C. Code Ann. § 48-1-130.

EXHIBIT RLP 4

Piney Grove Utilities, Inc.
Administrative Order
December 30, 2002
Page 2

If you have any questions in this matter, please call me at (803) 898-4261.

Sincerely,

A handwritten signature in cursive script, appearing to read "Anastasia Hunter-Shaw".

Anastasia Hunter-Shaw
Water Enforcement Division
Bureau of Water

Enclosure

cc: Central Midlands EQC District Office, w/enclosure
Mike Montebello, Domestic WW Permitting, w/enclosure
Lee Proctor, Water Enforcement Division, w/enclosure

**THE STATE OF SOUTH CAROLINA
BEFORE THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL**

**IN RE: PINEY GROVE UTILITIES, INC.
LLOYDWOOD SUBDIVISION
LEXINGTON COUNTY**

**ADMINISTRATIVE ORDER
02-268-W**

Piney Grove Utilities, Inc. (Respondent) owns and is responsible for the proper operation and maintenance of a wastewater treatment facility (WWTF) serving Lloydwood Subdivision located in Lexington County, South Carolina.

The Respondent violated the Pollution Control Act, S.C. Code Ann. §§ 48-1-10 et seq. (1987 and Supp. 2000) and National Pollutant Discharge Elimination System (NPDES) Permit SC0031402 in that it exceeded the permitted discharge limits for ammonia-nitrogen (NH₃-N), biochemical oxygen demand (BOD), dissolved oxygen (DO), fecal coliform bacteria and flow, and failed to at all times properly operate and maintain the WWTF in accordance with the NPDES permit. The Respondent also failed to provide for daily visits to the WWTF by an operator of appropriate grade and failed to monitor pH and DO on a daily basis as required by the NPDES permit. In accordance with approved policy and procedures the South Carolina Department of Health and Environmental Control (Department) has decided that it is necessary and appropriate to issue this Order to include the following Findings of Fact and Conclusions of Law.

FINDINGS OF FACT

1. The Department issued NPDES permit SC0031402 authorizing the Respondent to discharge

treated wastewater to an unnamed tributary to Dry Creek in accordance with the effluent limitations, monitoring requirements and other conditions set forth therein.

2. The WWTF has been identified through the 201/208 planning process for elimination by connection to a regional sewer system. The NPDES permit prescribes a schedule of compliance, which requires the Respondent to connect to a regional sewer system and cease discharging within ninety (90) days of notification by the Department that a regional sewer system is available.
3. The Respondent's WWTF was rated noncompliant due to violations of the permitted discharge limits for $\text{NH}_3\text{-N}$ during a Department Compliance Sampling Inspection (CSI) performed on April 17, 2000.
4. The Respondent's WWTF was rated noncompliant due to violations of the permitted discharge limits for $\text{NH}_3\text{-N}$, BOD and fecal coliform bacteria during a Department CSI performed on September 18, 2000.
5. On August 16, 2001, the Department received a complaint of strong sewage odors from a resident of the subdivision served by the Respondent's WWTF.
6. On August 17, 2001, Department personnel performed an Operation and Maintenance (O&M) Inspection at the Respondent's WWTF. The Respondent's WWTF received an unsatisfactory rating due to the following deficiencies: 1) The polishing pond was completely covered in duckweed; 2) The WWTF was only being sampled five (5) days per week instead of the required seven (7) days per week; 3) A sign with an emergency phone number was not posted on the gate; 4) The vegetation was not being maintained; and 5) The pond dikes were eroding.

7. On August 27, 2001, the Department received a complaint of extremely strong sewage odors from a resident of the subdivision served by the Respondent's WWTF.
8. Department personnel again visited the WWTF on August 29, 2001, and confirmed that an odor was present. A sample collected from the polishing pond and analyzed revealed a dissolved oxygen (DO) level of 0.97 milligrams per liter.
9. In a letter to the Respondent dated August 31, 2001, the Department informed the Respondent of the odor complaints and the deficiencies noted during the August 17, 2001, O&M Inspection, as well as the DO level detected on August 29, 2001. The Department advised the Respondent to remove the duckweed from the polishing pond as a measure of odor control. The Respondent was requested to begin removing the duckweed immediately upon receipt of the letter, and to submit to the Department a letter addressing the status of the duckweed removal within ten (10) days of receipt of the letter.
10. On January 10, 2002, Department personnel performed a Compliance Evaluation Inspection (CEI) at the Respondent's WWTF. The Respondent's operator of record was present during the CEI. The Respondent's WWTF received an unsatisfactory rating due to the following deficiencies: 1) A back-flow prevention device was not installed; 2) Analyses for DO and pH were only performed five (5) days per week instead of the required seven (7) days per week; 3) The pump station alarm system was not operational; and 4) The Respondent did not perform maintenance activities to the site, such as pumping out the effluent weir box and maintaining the access road.
11. On January 15, 2002, the Department received a complaint of strong sewage odors from a resident of the subdivision served by the Respondent's WWTF. Department personnel

visited the WWTF on the same day and confirmed the presence of odors and complete cover of duckweed on the polishing pond.

12. On April 1, 2002, the Department received a complaint of strong sewage odors from a resident of the subdivision served by the Respondent's WWTF.
13. A review of discharge monitoring reports submitted by the Respondent for the March 1, 2000, through June 30, 2002, monitoring periods has revealed the following violations of the permitted discharge limits:

NH₃-N - March, April, May, June, July, September, October, November and December 2000, January, February, March, April, May, June, July, August, September, October, November and December 2001, January, February, March, April, May and June 2002;

BOD - August, September, October and November 2000, August and September 2001, April and June 2002;

DO - March 2001; and

Flow - March and May 2000, and March 2001.

14. A regional sewer system owned by the City of Cayce is now available for connection.

CONCLUSIONS OF LAW

Based upon the above Findings of Fact, the Department reaches the following Conclusions of Law:

1. The Respondent violated the Pollution Control Act, S.C. Code Ann. 48-1-110 (d) (Supp. 2001), and Water Pollution Control Permits, 24 S.C. Code Ann. Regs. 61-9.122.41(a)(1) (Supp. 2001), in that it failed to comply with the permitted discharge limits for NH₃-N, BOD, DO, fecal coliform bacteria, and flow as specified in Part I.A.1 of the NPDES permit.
2. The Respondent violated the Pollution Control Act, S.C. Code Ann. § 48-1-110(d) (Supp.

2001), and Water Pollution Control Permits, 24 S.C. Code Ann. 61-9.122.41(a) (Supp. 2001), in that it failed to provide for daily visits by an operator of appropriate grade and failed to monitor pH and DO on a daily basis as required by the NPDES permit.

3. The Respondent violated the Pollution Control Act, S.C. Code Ann. § 48-1-110(d) (Supp. 2001), and Water Pollution Control Permits, 24 S.C. Code Ann. 61-9.122.41(e) (Supp. 2001), in that it failed to at all times properly operate and maintain the WWTF in accordance with the NPDES permit.
4. The Pollution Control Act, S.C. Code Ann. § 48-1-330 (1987), provides for a civil penalty not to exceed ten thousand dollars (\$10,000.00) per day of violation for any person violating the Act or any rule, regulation, permit, permit condition, final determination, or Order of the Department.

NOW, THEREFORE, IT IS ORDERED, pursuant to Pollution Control Act, S.C. Code Ann. § 48-1-50 (1987) and § 48-1-100 (Supp. 2001), that the Respondent shall:

1. Henceforth, comply with all permitting and operating requirements in accordance with State and Federal regulations.
2. Within thirty (30) days of the execution date of this Order, submit to the PSC for approval a contract for sewer service with the regional sewer provider.
3. Within sixty (60) days of the execution date of this Order, submit to the Department plans and specifications and an application for a permit to construct addressing elimination of the discharge by connection to regional sewer, including a closure plan.
4. If the contract is approved by the PSC:
 - a) Within two hundred forty (240) days of the execution date of this Order, begin

construction on the connection to regional sewer.

- b) Within four hundred twenty (420) days of the execution date of this Order, complete construction of the connection to regional sewer and eliminate the discharge.
- c) Within one hundred eighty (180) days of elimination of the discharge, close out the WWTF in accordance with Water Pollution Control Permits, 25 S.C. Code Ann. Regs. 61-9.503 (Supp. 2001), Proper Closeout of Wastewater Treatment Facilities, S.C. Code Ann. Regs. 61-82 (1976), and Standards for Wastewater Facility Construction S.C. Code Ann. Regs. 61-67 (as published in the State Register on May 24, 2002).

5. If the PSC denies the contract:

- a) Within sixty (60) days of the PSC's denial of the contract, submit to the Department plans and specifications and an application for a permit to construct addressing upgrade of the WWTF to meet permitted discharge limits.
- b) Within one hundred fifty (150) days of the PSC's denial of the contract begin construction of the permitted upgrade to the WWTF.
- c) Within two hundred forty (240) days of the PSC's denial of the contract, complete construction of the upgrade to the WWTF and request final operational approval from the Department.

6. Within thirty (30) days of the execution date of this Order, pay to the Department a civil penalty in the amount of thirty-seven thousand twenty-four dollars (\$37,024.00).

THEREFORE IT IS FURTHER ORDERED that if any event occurs which causes or may cause a delay in meeting any of the above scheduled dates for completion of any specified activity, the

Respondent shall notify the Department in writing at least one (1) week before the scheduled date, describing in detail the anticipated length of the delay, the precise cause or causes of delay, if ascertainable, the measures taken or to be taken to prevent or minimize the delay, and the timetable by which those measures will be implemented.

The Department shall provide written notice as soon as practicable that a specified extension of time has been granted or that no extension has been granted. An extension shall be granted for any scheduled activity delayed by an event of *force majeure*, which shall mean any event arising from causes beyond the control of the Respondent that causes a delay in or prevents the performance of any of the conditions under this Order including, but not limited to: a) acts of God, fire, war, insurrection, civil disturbance, explosion; b) adverse weather condition that could not be reasonably anticipated causing unusual delay in transportation and/or field work activities; c) restraint by court order or order of public authority; d) inability to obtain, after exercise of reasonable diligence and timely submittal of all applicable applications, any necessary authorizations, approvals, permits, or licenses due to action or inaction of any governmental agency or authority; and e) delays caused by compliance with applicable statutes or regulations governing contracting, procurement or acquisition procedures, despite the exercise of reasonable diligence by the Respondent.

Events which are not *force majeure* include by example, but are not limited to, unanticipated or increased costs of performance, changed economic circumstances, normal precipitation events, or any person's failure to exercise due diligence in obtaining governmental permits or fulfilling contractual duties. Such determination will be made in the sole discretion of the Department. Any extension shall be incorporated by reference as an enforceable part of this Order and thereafter be referred to as an attachment to the Order.

PURSUANT TO THIS ORDER, all communication regarding this Order and its requirements shall be addressed as follows:

Anastasia Hunter-Shaw
Water Enforcement Division
Bureau of Water
SCDHEC
2600 Bull Street
Columbia, S.C. 29201

IT IS FURTHER ORDERED that failure to comply with any provision of this Order shall be grounds for further enforcement action pursuant to the Pollution Control Act, S.C. Code Ann. § 48-1-330 (1987), to include the assessment of civil penalties.

NOTICE IS HEREBY GIVEN that this Administrative Order may be contested pursuant to 25 S.C. Code Ann. Regs. 61-72 and Rules of Procedure for the Administrative Law Judge Division by filing a request for a contested case within fifteen (15) calendar days of receipt of the Administrative Order. The request for a contested case must be received by the Clerk of the Board of the Department of Health and Environmental Control, 2600 Bull Street, Columbia, South Carolina, 29201 and must contain the following:

- A. The name of the party requesting the hearing and the issue(s) for which the hearing is requested;
- B. The caption or other information sufficient to identify the decision, order, action or inaction which is the subject of the hearing; and
- C. The relief requested.

You are further notified that this Order shall become final as written if a proper request for

contested case hearing is not filed within fifteen (15) days of receipt of this Administrative Order.

In addition, the Administrative Law Judge Division requires that a person requesting a contested case hearing must file a copy of the request and a filing fee in the amount of one hundred dollars (\$100.00) with the Administrative Law Judge Division at the following address:

Clerk, Administrative Law Judge Division
1205 Pendleton Street
P.O. Box 11667
Columbia, SC 29211

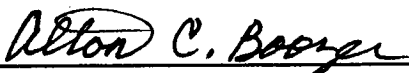
IT IS SO ORDERED.

**THE SOUTH CAROLINA DEPARTMENT OF
HEALTH AND ENVIRONMENTAL CONTROL**



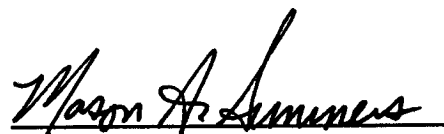
C. Earl Hunter,
Commissioner

DATE: 12/19/02



Alton C. Boozer, Chief
Bureau of Water

DATE: 12/19/02



Attorney for the Department

DATE: 12-19-02

**STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW JUDGE DIVISION**

Piney Grove Utilities, Inc/ Lloydwood
Subdivision,

Petitioner,

v.

South Carolina Department of Health
and Environmental Control,

Respondent.

Docket No. 03-ALJ-07-0215-CC

CONSENT ORDER OF DISMISSAL

RECEIVED

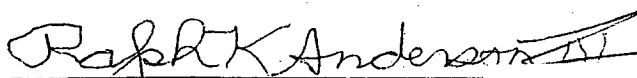
APR 22 2004

DHEC
OFFICE OF GENERAL COUNSEL

This matter is before the South Carolina Administrative Law Judge Division pursuant to Petitioner Piney Grove Utilities' request for a contested case hearing to challenge Administrative Order 02-268-W, issued by the South Carolina Department of Health and Environmental Control. Prior to a hearing being held in the ALJ Division, the parties executed Consent Order 04-007-W, which resolved all outstanding issues related to this matter and brings litigation of this case to a close. Consent Order 04-007-W is attached and incorporated into this Consent Order of Dismissal. The findings of fact and conclusions of law included within Consent Order 04-007-W are stipulations of the parties and are not findings and conclusions made by this Court.

Accordingly, by and with the consent of the parties, it is ordered and agreed that, this contested case be dismissed.

AND IT IS SO ORDERED.



Ralph King Anderson, III
Administrative Law Judge

April 21, 2004
Columbia, South Carolina

EXHIBIT RLP 5
FILED

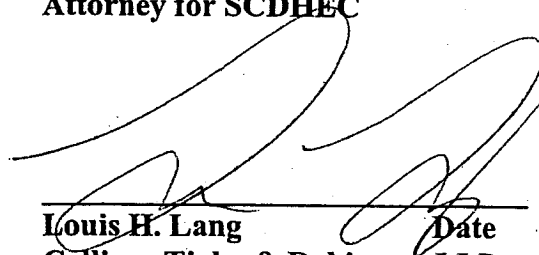
APR 21 2004

ADMIN. LAW JUDGE DIV.

WE CONSENT:

 3-31-04

Mason A. Summers Date
DHEC Office of General Counsel
2600 Bull Street
Columbia, SC 29201-1708
(803) 898-3349
Attorney for SCDHEC



Louis H. Lang Date
Callison Tighe & Robinson, LLP
1812 Lincoln Street
Columbia, SC 29201
(803) 256-2371
Attorney for Piney Grove Utilities

CERTIFICATE OF SERVICE
This is to certify that the undersigned has this date
served this order in the above entitled action upon all
parties to this cause by depositing a copy hereof,
in the United States mail, postage paid, or in the Interagency
Mail Service addressed to the party(ies) or their attorney(s).

This 21st day of April 2004
By Elizabeth L. Berger
Judicial Law Clerk

**THE STATE OF SOUTH CAROLINA
BEFORE THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL**

**IN RE: PINEY GROVE UTILITIES, INC.
LLOYDWOOD SUBDIVISION
LEXINGTON COUNTY**

**CONSENT ORDER
04-007-W**

Piney Grove Utilities, Inc. (Respondent) owns and is responsible for the proper operation and maintenance of a wastewater treatment facility (WWTF) serving Lloydwood Subdivision located in Lexington County, South Carolina.

The Respondent violated the Pollution Control Act, S.C. Code Ann. §§ 48-1-10 et seq. (1987 and Supp. 2003) and National Pollutant Discharge Elimination System (NPDES) Permit SC0031402 in that it exceeded the permitted discharge limits for ammonia-nitrogen (NH₃-N), biochemical oxygen demand (BOD), dissolved oxygen (DO), fecal coliform bacteria and flow, and failed to at all times properly operate and maintain the WWTF in accordance with the NPDES permit. The Respondent also failed to provide for daily visits to the WWTF by an operator of appropriate grade and failed to monitor pH and DO on a daily basis as required by the NPDES permit.

In accordance with approved procedures and based on discussions with the Respondent's agent, the parties have agreed to the issuance of this Order to include the following Findings of Fact and Conclusions of Law.

FINDINGS OF FACT

1. The Department issued NPDES permit SC0031402 authorizing the Respondent to discharge treated wastewater to an unnamed tributary to Dry Creek in accordance with the effluent limitations, monitoring requirements and other conditions set forth therein.
2. The WWTF has been identified through the 201/208 planning process for elimination by connection to a regional sewer system. The NPDES permit prescribes a schedule of compliance, which requires the Respondent to connect to a regional sewer system and cease discharging within ninety (90) days of notification by the Department that a regional sewer system is available.
3. The Respondent's WWTF was rated noncompliant due to violations of the permitted discharge limits for $\text{NH}_3\text{-N}$ during a Department Compliance Sampling Inspection (CSI) performed on April 17, 2000.
4. The Respondent's WWTF was rated noncompliant due to violations of the permitted discharge limits for $\text{NH}_3\text{-N}$, BOD and fecal coliform bacteria during a Department CSI performed on September 18, 2000.
5. On August 16, 2001, the Department received a complaint of strong sewage odors from a resident of the subdivision served by the Respondent's WWTF.
6. On August 17, 2001, Department personnel performed an Operation and Maintenance (O&M) Inspection at the Respondent's WWTF. The Respondent's WWTF received an unsatisfactory rating due to the following deficiencies: 1) The polishing pond was completely covered in duckweed; 2) The WWTF was only being sampled five (5) days per week instead of the required seven (7) days per week; 3) A sign with an emergency phone

number was not posted on the gate; 4) The vegetation was not being maintained; and 5) The pond dikes were eroding.

7. On August 27, 2001, the Department received a complaint of extremely strong sewage odors from a resident of the subdivision served by the Respondent's WWTF.
8. Department personnel again visited the WWTF on August 29, 2001, and confirmed that an odor was present. A sample collected from the polishing pond and analyzed revealed a dissolved oxygen (DO) level of 0.97 milligrams per liter.
9. In a letter to the Respondent dated August 31, 2001, the Department informed the Respondent of the odor complaints and the deficiencies noted during the August 17, 2001, O&M Inspection, as well as the DO level detected on August 29, 2001. The Department advised the Respondent to remove the duckweed from the polishing pond as a measure of odor control. The Respondent was requested to begin removing the duckweed immediately upon receipt of the letter, and to submit to the Department a letter addressing the status of the duckweed removal within ten (10) days of receipt of the letter.
10. On January 10, 2002, Department personnel performed a Compliance Evaluation Inspection (CEI) at the Respondent's WWTF. The Respondent's operator of record was present during the CEI. The Respondent's WWTF received an unsatisfactory rating due to the following deficiencies: 1) A back-flow prevention device was not installed; 2) Analyses for DO and pH were only performed five (5) days per week instead of the required seven (7) days per week; 3) The pump station alarm system was not operational; and 4) The Respondent did not perform maintenance activities to the site, such as pumping out the effluent weir box and maintaining the access road.

11. On January 15, 2002, the Department received a complaint of strong sewage odors from a resident of the subdivision served by the Respondent's WWTF. Department personnel visited the WWTF on the same day and confirmed the presence of odors and complete cover of duckweed on the polishing pond.
12. On April 1, 2002, the Department received a complaint of strong sewage odors from a resident of the subdivision served by the Respondent's WWTF.
13. A review of discharge monitoring reports submitted by the Respondent for the March 1, 2000, through June 30, 2002, monitoring periods has revealed the following violations of the permitted discharge limits:

NH₃-N - March, April, May, June, July, September, October, November and December 2000, January, February, March, April, May, June, July, August, September, October, November and December 2001, January, February, March, April, May and June 2002;

BOD - August, September, October and November 2000, August and September 2001, April and June 2002;

DO - March 2001; and

Flow - March and May 2000, and March 2001.

14. A regional sewer system owned by the City of Cayce is now available for connection.
15. The Respondent claimed a financial hardship and an inability to pay a civil penalty commensurate with the alleged violations and in the amount assessed by the Department. A request was made for relief. The Department accepted financial records, which are believed to accurately reflect the current financial position of the Respondent. Based upon a complete review of this information, the Department agrees to adjust the civil penalty amount as set forth below.

CONCLUSIONS OF LAW

Based upon the above Findings of Fact, the Department reaches the following Conclusions of Law:

1. The Respondent violated the Pollution Control Act, S.C. Code Ann. § 48-1-110 (d) (Supp. 2003), and Water Pollution Control Permits, 24 S.C. Code Ann. Regs. 61-9.122.41(a)(1) (Supp. 2003), in that it failed to comply with the permitted discharge limits for NH₃-N, BOD, DO, fecal coliform bacteria, and flow as specified in Part I.A.1 of the NPDES permit.
2. The Respondent violated the Pollution Control Act, S.C. Code Ann. § 48-1-110(d) (Supp. 2003), and Water Pollution Control Permits, 24 S.C. Code Ann. 61-9.122.41(a) (Supp. 2003), in that it failed to provide for daily visits by an operator of appropriate grade and failed to monitor pH and DO on a daily basis as required by the NPDES permit.
3. The Respondent violated the Pollution Control Act, S.C. Code Ann. § 48-1-110(d) (Supp. 2003), and Water Pollution Control Permits, 24 S.C. Code Ann. 61-9.122.41(e) (Supp. 2003), in that it failed to at all times properly operate and maintain the WWTF in accordance with the NPDES permit.
4. The Pollution Control Act, S.C. Code Ann. § 48-1-330 (1987), provides for a civil penalty not to exceed ten thousand dollars (\$10,000.00) per day of violation for any person violating the Act or any rule, regulation, permit, permit condition, final determination, or Order of the Department.

NOW, THEREFORE, IT IS ORDERED, pursuant to Pollution Control Act, S.C. Code Ann. § 48-1-50 (1987) and § 48-1-100 (Supp. 2003), that the Respondent shall:

1. Henceforth, comply with all permitting and operating requirements in accordance with State and Federal regulations.
2. Within sixty (60) days of the execution date of this Order, submit to the PSC for approval a contract for sewer service with the regional sewer provider.
3. If the contract is approved by the PSC:
 - a) Within thirty days (30) after the PSC approves the contract, submit to the Department plans and specifications and an application for a permit to construct addressing elimination of the discharge by connection to regional sewer, including a closure plan.
 - b) Within ten (10) months of the execution date of this Order, begin construction on the connection to regional sewer.
 - c) Within fourteen (14) months of the execution date of this Order, complete construction of the connection to regional sewer and eliminate the discharge.
 - d) Within six (6) months of elimination of the discharge, close out the WWTF in accordance with Water Pollution Control Permits, 25 S.C. Code Ann. Regs. 61-9.503 (Supp. 2001), Proper Closeout of Wastewater Treatment Facilities, S.C. Code Ann. Regs. 61-82 (1976), and Standards for Wastewater Facility Construction S.C. Code Ann. Regs. 61-67 (as published in the State Register on May 24, 2002).
4. If the PSC denies the contract:
 - a) Within two (2) months of the PSC's denial of the contract, submit to the Department

plans and specifications and an application for a permit to construct addressing upgrade of the WWTF to meet permitted discharge limits.

- b) Within five (5) months of the PSC's denial of the contract begin construction of the permitted upgrade to the WWTF.
- c) Within eleven (11) months of the PSC's denial of the contract, complete construction of the upgrade to the WWTF and request final operational approval from the Department.

5. If the regional sewer provider refuses to provide a contract to the Respondent within sixty (60) days from the date of this Order, the Respondent will upgrade the plant to meet permitted discharge limits in accordance with the following schedule:

- a) Within four (4) months of the date of this Order, submit to the Department plans and specifications and an application for a permit to construct addressing upgrade of the WWTF to meet permitted discharge limits.
- b) Within seven (7) months of the date of this Order begin construction of the permitted upgrade to the WWTF.
- c) Within thirteen (13) months of the date of this Order, complete construction of the upgrade to the WWTF and request final operational approval from the Department.

IT IS FURTHER ORDERED AND AGREED that the Department has assessed a civil penalty in the amount of thirty-one thousand twenty-four dollars (\$31,024.00). The Department suspends the entire penalty, provided, however, that this suspension shall be vacated and the full amount of thirty-one thousand twenty-four dollars (\$31,024.00) shall be due and payable upon notification by the Department should the Respondent fail to meet the requirements of the Order. The Department's

determination that the requirements have not been met shall be final. Further, a violation of the terms of this Order shall be deemed a violation of the South Carolina Pollution Control Act and shall be deemed unlawful, and may subject the Respondent to further enforcement action.

THEREFORE IT IS FURTHER ORDERED that if any event occurs which causes or may cause a delay in meeting any of the above scheduled dates for completion of any specified activity, the Respondent shall notify the Department in writing at least one (1) week before the scheduled date, describing in detail the anticipated length of the delay, the precise cause or causes of delay, if ascertainable, the measures taken or to be taken to prevent or minimize the delay, and the timetable by which those measures will be implemented.

The Department shall provide written notice as soon as practicable that a specified extension of time has been granted or that no extension has been granted. An extension shall be granted for any scheduled activity delayed by an event of *force majeure*, which shall mean any event arising from causes beyond the control of the Respondent that causes a delay in or prevents the performance of any of the conditions under this Order including, but not limited to: a) acts of God, fire, war, insurrection, civil disturbance, explosion; b) adverse weather condition that could not be reasonably anticipated causing unusual delay in transportation and/or field work activities; c) restraint by court order or order of public authority; d) inability to obtain, after exercise of reasonable diligence and timely submittal of all applicable applications, any necessary authorizations, approvals, permits, or licenses due to action or inaction of any governmental agency or authority; and e) delays caused by compliance with applicable statutes or regulations governing contracting, procurement or acquisition procedures, despite the exercise of reasonable diligence by the Respondent.

Events which are not *force majeure* include by example, but are not limited to, unanticipated

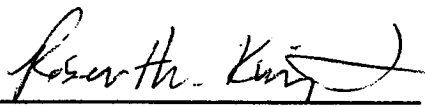
or increased costs of performance, changed economic circumstances, normal precipitation events, or any person's failure to exercise due diligence in obtaining governmental permits or fulfilling contractual duties. Such determination will be made in the sole discretion of the Department. Any extension shall be incorporated by reference as an enforceable part of this Order and thereafter be referred to as an attachment to the Order.

PURSUANT TO THIS ORDER, all communication regarding this Order and its requirements shall be addressed as follows:

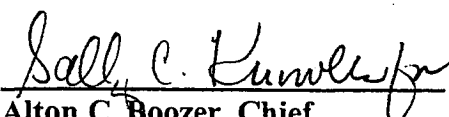
Anastasia Hunter-Shaw
Water Enforcement Division
Bureau of Water
SCDHEC
2600 Bull Street
Columbia, S.C. 29201

IT IS FURTHER ORDERED that failure to comply with any provision of this Order shall be grounds for further enforcement action pursuant to the Pollution Control Act, S.C. Code Ann. § 48-1-330 (1987), to include the assessment of civil penalties.

**THE SOUTH CAROLINA DEPARTMENT OF
HEALTH AND ENVIRONMENTAL CONTROL**

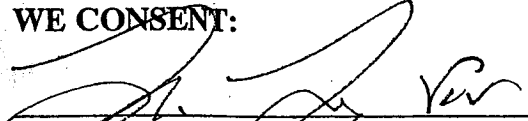

Robert W. King, Jr., P.E.
Deputy Commissioner for
Environmental Quality Control

DATE: 3/26/04

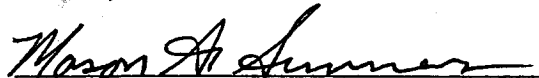

Alton C. Boozer, Chief
Bureau of Water

DATE: March 19, 2004

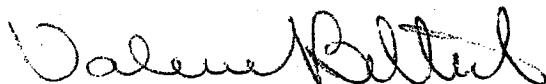
WE CONSENT:


Reece Williams, *President of*
Piney Grove Utilities, Inc.,
at my own authority

DATE: 18 Feb 04


Mason A. Summer
Attorney for the Department

DATE: 3-19-04


Valerie A. Betterton, Director
Water Enforcement Division

DATE: 3-18-04

BOARD:
Elizabeth M. Hagood
Chairman
Edwin H. Cooper, III
Vice Chairman
L. Michael Blackmon
Secretary



C. Earl Hunter, Commissioner

Promoting and protecting the health of the public and the environment.

BOARD:
Carl L. Brazell
Steven G. Kisner
Paul C. Aughtry, III
Coleman F. Buckhouse, MD

June 29, 2005

HAND DELIVERED

Mr. Louis H. Lang, Esquire
Callison Tighe Robinson LLP
Post Office Box 1390
Columbia, SC 29202-1390

RE: **Administrative Order 05-076-W**
Piney Grove Utilities, Inc.
Lloydwood Subdivision WWTF
NPDES Permit SC0035661
York County

Dear Mr. Lang:

Enclosed is the fully executed Administrative Order 05-076-W affecting Piney Grove Utilities, Inc./Lloydwood Subdivision. The execution date of this Order is June 29, 2005.

This decision may be appealed to the Administrative Law Court (ALC) by complying with the following requirements of the ALC:

1. File a request for a contested case hearing with the Clerk of the Administrative Law Court at the following address within 30 days after notice of this decision:

Clerk, Administrative Law Court
1205 Pendleton Street, Suite 224
P. O. Box 11667
Columbia, SC 29211
803-734-0550

The ALC has a Notice of Request for Contested Case Hearing form that may be used, but is not required. The form and the Rules of the ALC can be found at the ALC's website: <http://www.scalc.net>.

A request for a contested case hearing must contain the following information pursuant to ALC Rule 11:

EXHIBIT RLP 6

**THE STATE OF SOUTH CAROLINA
BEFORE THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL**

**IN RE: PINEY GROVE UTILITIES, INC.
LLOYDWOOD SUBDIVISION WASTEWATER TREATMENT FACILITY
LEXINGTON COUNTY**

**ADMINISTRATIVE ORDER
05-076-W**

Piney Grove Utilities, Inc. (Respondent) owns and is responsible for the proper operation and maintenance of a wastewater treatment facility (WWTF) and wastewater collection system (WWCS), serving the residents of the Lloydwood Subdivision (Site) located off of U.S. Highway 321 in Lexington County, South Carolina.

The Respondent violated the Pollution Control Act, S.C. Code Ann. § 48-1-10 to -350 (1987 and Supp. 2004), and National Pollutant Discharge Elimination System (NPDES) Permit SC0031402, in that it failed to operate and maintain the WWTF and WWCS in accordance with the NPDES permit. The Respondent also discharged untreated wastewater into the environment in a manner other than in compliance with a permit issued by the South Carolina Department of Health and Environmental Control (Department).

In accordance with approved procedures, the Department has determined that it is appropriate and necessary to issue this Administrative Order to include the following Findings of Fact and Conclusions of Law.

the Respondent's WWTF. Department staff inspected the Site and noted that the polishing pond water had less than one (1.0) milligram per liter (mg/l) of Dissolved Oxygen (DO) and that there was a very heavy cover of duckweed over the pond, causing the pond water to go septic and release an offensive odor.

5. On April 23, 2003, in response to a resident's complaint, Department personnel inspected a cleanout at 313 Hadley Hall Road and witnessed waste solids and standing water in and around the cleanout. The manhole below 313 Hadley Hall Road was flowing and was not backed up. The Department inspector could not locate the manhole above 313 Hadley Hall Road. The complainant informed the Department that a plumber had been to 313 Hadley Hall Road approximately five (5) times to try to fix the problem. The complainant said that after the main line was jet-rodded, the problem seemed to be resolved and that he would call back if the problem reoccurred.
6. On April 28, 2003, the complainant referenced in paragraph five above, called to report sewage backing up again at 313 Hadley Hall Road and to report that other community members were experiencing problems also.
7. On May 1, 2003, the Department notified the Respondent, via certified mail-return receipt requested, that it had received several complaints concerning sewer back ups into the complainant's home at 313 Hadley Hall Road. The Department's letter also stated that the complainant notified the Department that he had called the Respondent many times without the Respondent returning the calls. The Department's letter also stated that the complainant notified the Department that he had to hire a plumber who notified the complainant that the sewer back up was due to a tap not functioning properly. The Department requested that the

requested the Respondent submit a written response within fifteen (15) days addressing all corrective actions taken to bring the WWTF into compliance with State and Federal regulations. To date, the Department has not received the requested response. Included in the findings of the FEI were the following deficiencies:

- a. The heavy mat of duckweed on the polishing pond is causing very offensive odors.
 - b. Vegetation around the lagoon is extremely high and must be cut.
 - c. There is no electric fan with a vent installed in the chlorine room and the wiring appears to be in need of repair. This is where the operator's records are maintained and is a safety concern.
 - d. The free board of the ponds is eroding and the vegetation is heavy.
 - e. Tree limbs are hanging over the pump station; there is vegetation on the fence line; and, large broken tree limbs are partially hanging over the driveway and are a safety hazard.
16. On February 10, 2004, Department staff received a citizen's complaint regarding a sewer overflow in the front yard of 414 Old Plantation Drive, coming from a cleanout. A plumber, called by the complainant, notified her that the problem was due to a blockage at the main line tap.
17. On February 11, 2004, Department staff received a citizen's complaint regarding a sewage overflow from the cleanout in the front yard of 17 Mayligh Court.
18. On April 8, 2004, Department staff received a citizen's complaint regarding bad odors coming from a fenced field that is located beside 425 Ravenscroft Road. The complainant stated that the field was covered with raw sewage sometimes as deep as one (1) foot. The

front of 337 South Hall Road. Department staff contacted the Respondent, via the telephone, to make them aware of the problem, and left a message on the Respondent's answering machine. On September 3, 2004, Department staff re-inspected the area and determined the overflow had been stopped; the manhole was flowing properly; lime was applied around the manhole and the cleanout to disinfect the area; sewage was still standing in the roadways on all roads; sewage was still standing in both storm drains; and, no lime had been applied to the roadways or the storm drains.

22. On September 10, 2004, Department staff received a citizen's complaint regarding sewage discharging from a manhole on Creighton Drive. The complainant notified the Department that sewage was running down Creighton Drive onto Ravenscroft Road and then onto South Hall Road and entering a storm drain on South Hall Road. The Respondent was immediately called by Department staff and notified of the problem. On September 13, 2004, Department staff inspected the area and determined that the problem had been fixed and although the manhole and storm drain were limed, other areas were not.
23. On November 19, 2004, Department staff received a citizen's complaint regarding sewage discharging from a cleanout next to the house at 304 Cooksmount Road and from the cleanout located at the property line. The complainant notified the Department that she had hired a plumber, who notified her that the problem was at the Respondent's tap or in the main line. The Department contacted the Respondent's attorney on November 22, 2004, via telephone and informed him of the problem in order to get it corrected.
24. On December 27, 2004, Department staff received a citizen's complaint regarding sewage discharging from the cleanout at 310 Cooksmount Road. The complainant further stated that

from 17 Mayligh Court enters the mainline, and the manhole had water standing in the bottom. Department staff then looked in the manhole down the road where the Mayligh Court line intersects with a second mainline and observed that the water was barely trickling from the Mayligh Court line. The Respondent was contacted by the complainant via letter (copy attached as Attachment C) and by Department staff, via the telephone and advised of the problem.

29. As of the date of this Order, the Department has not received any of sewer system overflow (SSO) reports, either oral within twenty-four (24) hours of detection or written within five (5) days of detection for any of the SSOs listed above as required by the NPDES Permit.

CONCLUSIONS OF LAW

Based upon the above Findings of Fact, the Department reaches the following Conclusions of Law:

1. The Pollution Control Act, S.C. Code Ann. § 48-1-40 (1987), authorizes the Department, after public hearing, to adopt standards and determine what qualities and properties of water and air shall indicate a polluted condition, to promulgate these standards and make them part of the rules and regulations of the Department.
2. The Pollution Control Act, S.C. Code Ann. § 48-1-50(3) (1987), authorizes the Department to make, revoke, and modify Orders to establish compliance with State and Federal regulations.
3. The Pollution Control Act, S.C. Code Ann. § 48-1-60 (1987), authorizes the Department to, after proper study and conducting a public hearing upon due notice, adopt rules and regulations and classification standards.

(Supp. 2004), in that they failed to notify the Department orally within twenty-four (24) hours and in writing within five (5) days of discovery numerous sewer system overflows (SSOs) in accordance with Part II.L.5.(a through c) (non-compliance reporting requirements) of their NPDES Permit.

8. The Respondent violated the Pollution Control Act, S.C. Code Ann. § 48-1-90(a)(1987), in that they discharged untreated wastewater into the environment in a manner other than in compliance with a permit issued by the Department.
9. The Pollution Control Act, S.C. Code Ann. § 48-1-330 (1987) provides for a civil penalty not to exceed ten thousand dollars (\$10,000.00) per day of violation for any person violating the Act, regulation, permit, permit condition, final determination, or Order of the Department.

NOW, THEREFORE, IT IS ORDERED, pursuant to the Pollution Control Act, S.C. Code Ann. § 48-1-50 (1987) and § 48-1-100 (Supp. 2004), that the Respondent shall:

1. Henceforth, begin and continue to comply with State and Federal Regulations.
2. Within twenty-four (24) hours after detection, orally report to the Department: 1) all wastewater spills which may pose a threat to human health and/or the environment, 2) all wastewater spills which enter surface waters of the State, and/or 3) all wastewater spills which exceed five hundred (500) gallons. Within five (5) days after detection, all wastewater spills referenced above shall be reported to the Department on and in accordance with DHEC SSO or Pump Station Failure Report Form.
3. Within sixty (60) days of the execution date of this Order, begin development of a capacity, Management, Operation and Maintenance (cMOM) audit. This audit should be a comprehensive management plan for the WWTF and for the WWCS. The management plan

months until this Order is closed, submit to the Department a summary report of corrective actions addressing deficiencies in the WWCS and WWTF.

7. Within thirty (30) days of the execution date of this Order, pay to the Department a civil penalty in the amount of sixty-two thousand four hundred sixty dollars and fourteen cents (\$62,460.00).

NOW THEREFORE IT IS FURTHER ORDERED that nothing in the Administrative Order is intended to or does supersede the requirements in the Consent Order of Dismissal dated April 21, 2004 and signed by the Honorable Judge Ralph King Anderson, referenced in paragraph three (3) above.

PURSUANT TO THIS ORDER, communications regarding this Order and its requirements shall include the Order number and shall be addressed as follows:

Robert L. Proctor
Bureau of Water-Enforcement Division
S.C. Department of Health and Environmental Control
2600 Bull Street
Columbia, S.C. 29201

The Respondent shall confirm, in writing, completion of the Order requirements to the above address within five (5) days of completion. Please include the Order number listed above on all correspondence submitted to the Department in response to this Administrative Order, including a checks remitted as payment of the civil penalty.

IT IS FURTHER ORDERED that failure to comply with any provision of this Order shall be grounds for appropriate sanctions and further enforcement action pursuant to the Pollution Control Act, S.C. Code Ann. § 48-1-330 (1987), to include the assessment of additional civil penalties.

NOTICE IS HEREBY GIVEN that this decision may be appealed to the Administrative Law Court

Inc.'s liability to the Department for civil sanctions arising from the matters set forth herein and constitutes the entire Order of the Department as it relates to Piney Grove Utilities, Inc. with respect to the resolution and settlement of the matters set forth herein. The parties are not relying upon any representations, promises, understandings or agreements except as expressly set forth within this Order.

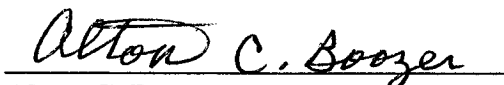
IT IS SO ORDERED.

**THE SOUTH CAROLINA DEPARTMENT OF
HEALTH AND ENVIRONMENTAL CONTROL**



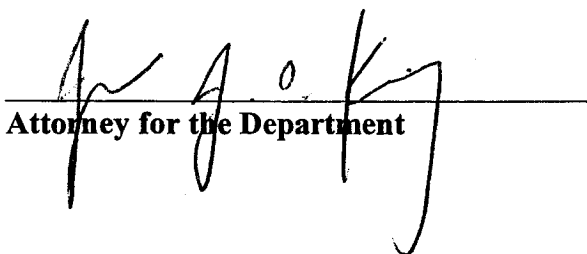
**C. Earl Hunter, Commissioner
South Carolina Department of
Health and Environmental Control**

Date: June 29, 2005



**Alton C. Boozer,
Bureau Chief
Bureau of Water**

Date: 29 June, 2005



Attorney for the Department

Date: June 29, 2005

FACSIMILE TRANSMITTAL SHEET

TO:	Reese Williams, Owner	FROM:	Tracie Hostilo
COMPANY:	Piney Grove Utilities	DATE:	2/28/2005
FAX NUMBER:		TOTAL NO. OF PAGES INCLUDING COVER:	2
PHONE NUMBER:	803-606-9224	CC:	Lee Proctor-DHEC Enforcement
RE:	17 Mayligh Court-Sewage Backup	FAX NUMBER:	803-898-3795

☒ URGENT ☐ FOR REVIEW ☐ PLEASE COMMENT ☐ PLEASE REPLY ☐ PLEASE RECYCLE

NOTES/COMMENTS:

It was brought to my attention on Monday, February 28, 2005, by the residents of 17 Mayligh Court, West Columbia, SC 29172, that there has been sewage backing up into the home beginning on Friday, February 25, 2005. I currently rent this property to Chris Kremer. The residents repeatedly called Piney Grove Friday and Saturday until someone finally showed up on Sunday, February 27, 2005. Initially, the employee had agreed with the resident that the problem was not on the property, but within Piney Grove's jurisdiction. Once the employee left the area, he called the resident and told them to call a plumber and that it was not Piney Groves' responsibility.

The residents regarding the above matter contacted me this morning. I then called Piney Grove Utilities and spoke with Martin, who also told me it was not their responsibility and to get a plumber. I then contacted Gene Love Plumbing to go to my property and access the situation. The attached documents his findings.

This is the second similar problem I have encountered with Piney Grove Utilities. Last year, when the same exact thing occurred, I did not request reimbursement of any kind from your company. However, due to this being the second time this problem has occurred and your failure to acknowledge the problem, I am requesting that I be reimbursed for the total amount charged by Gene Love Plumbing, \$309.23.

Should there be any structural damage to my property due to your inadequate customer service, I will send you a bill for that as well.

Sincerely,



Tracie Hostilo
324 Presque Isle Road
Lexington, SC 29072



CENTRAL MIDLANDS EQC DISTRICT
PO Box 156, Building #5
State Park, SC 29147
(803) 896-0620 Fax (803) 896-0617

Certified Mail – Return Receipt Requested #7004-2510-0004-0932-1776

March 1, 2005

Mr. Reece Williams, Piney Grove Utilities
c/o Mr. Louis H. Lang
Callison Tighe & Robinson
P.O. Box 1390
Columbia, SC 29202-1390

RECEIVED

MAR 01 2005

BUREAU OF WATER
WATER ENFORCEMENT DIVISION

RE: NPDES Permit #SC0031402
Piney Grove Utilities, Inc., / Lloydwood Subdivision WWTF
S.C. Certified Operator Grade Request

Dear Mr. Williams:

The Department has received a letter from E.A. Services, Inc., your contract operator and laboratory, that effective today, March 1, 2005, E.A. Services will no longer operate the Lloydwood Subdivision Wastewater Treatment Facility or submit monthly discharge monitoring reports (DMR) for December 2004, January 2005 and February 2005.

According to your Surface Water Permit SC#0031402, the facility is to receive routine daily (7 days a week) plant inspections by a grade "C" South Carolina certified biological operator and comply with all permit requirements, such as sampling and reporting. The Department is requesting that the permittee obtain the appropriate grade S.C. certified operator to perform daily routine inspections and a S.C. approved laboratory to analyze all permitted parameters on a daily, twice a month, and quarterly basis. These requirements must be met within three business days of receiving this letter.

Please notify this office of the following within three days of receiving this letter.

- Date new certified operator assumed responsibility of the facility
- Operator (s) full name
- Type of S.C. Operator License
- Grade of S.C. Operator License
- S.C. Operator License number
- Certified S.C. Laboratory number

EXHIBIT RLP 7

Page 2

Lloydwood Subdivision WWTF

March 1, 2005.

As for the December 2004, January and February 2005 discharge monitoring reports (DMR) and future DMR's, please be aware that these reports are due to the Department by the 28th day of the following operating month.

This letter will serve as notification that it is the permittee's responsibility to comply with all conditions of the NPDES permit and make the Department aware of any changes as they occur.

Should you have any questions, please contact Larry Boland or me at (803) 896-0620.

Sincerely,



D. Tracey Wilkes
Wastewater Evaluator
Central Midlands District

cc: Larry Boland, SCDHEC Central Midlands
Robin Foy, SCDHEC Enforcement
Matthew Penn, SCDHEC General Counsel

SOUTH CAROLINA Department of Health and Environmental Control
FIELD QUALITY CONTROL WORKSHEET

Facility: Lloydwood WWT mFET NPDES No: SC0031402 County: Lex.
 Date In: _____ Time In: _____ Date Out: _____ Time Out: _____
 Flow Meter Serial Number: _____ Module No: _____ Max. Head: _____
 Primary Flow Device: _____
 Scaling Constant (GPS): _____ Chart Speed: _____
 Head at Set-Up: _____ Flow Rate at Set-Up (GPS): _____
 Full Scale Flow Rate (GPS): _____ Estimated Daily Flow (MGD): _____
 Total Flow Day One (MGD): _____ Total Flow Day Two (MGD): _____
 In-House Flow Equipment Checked: _____

COMMENTS

- #s (606) 606-9224
(843) 200-4876
- ① I spoke with Martin on 606-9224, 3/22/05 @ 11:35:42 am from DHEC cell # 803-240-1447 and told him that I was on my way to perform inspection.
- ② Entered loc. @ 1150
- ③ CL₂ & C.C. pulled @ 1200 @ pipe leaving C.C.
- ④ No CL₂ on site, empty bucket of CL₂ tablets, limbs down on floor, vegetation is high around lagoons/fens.
- ⑤ Heavy mat of duckweed present and clogging in rippling pond.
- ⑥ Effluent 6 rings, cloudy, very strong smelling grey sulfur.
- ⑦ No records on actual flowmeters.
- ⑧ Flow meter recorder paper is empty, present roll is finished; could not read head of flowmeter due to paper problem mentioned above. Paper has torn through paper.
- ⑨ Sampling of creek with pump connected to flowmeter is with 2 outfall; sample bucket is 3/4 full of water; water is clear.

samples released to K. Williams 3/22/05 @ 1330

SOUTH CAROLINA Department of Health and Environmental Control
FIELD QUALITY CONTROL WORKSHEETDry Creek
Aerobic LagoonCOLLECTOR: B. MartinLloydwood WWT mFET

WEATHER CODES:
 Clear 00, Fair 01,
 Cloudy 02, Rain 22
 STAGE CODES:
 Ebb 2000, Flood 4000

Collected

(lany)

(yr/mo/day)

Water

Air (°C)

Rain R.B.

In (meters)

Down/Staff Gage (ft)

Stage

pH (au)

D.O. (mg/l)

Water (°C)

Tota. Tot. Res. (mg/l)

Water Class

Conductivity (umhos/cm)

Stream (cfs)

Facility (mgd)

QUALITY ASSURANCE

Water Serial No.

Water Temp. (°C)

D Buffer (au)

Adjusted to (au)

D Buffer (au)

DO Buffer (au)

Meter Serial No.

Water D.O. (mg/l)

Water Temp. (°C)

D.O. (mg/l)

Adjusted to (mg/l)

Conductivity Meter Serial No.

(umhos/cm) °C

(umhos/cm) °C

Flow Meter Serial No.

Card (Blank)

Card (0.50 mg/l)

Card (1.00 mg/l)

pH Adjusted to (au)

Recorder Serial No.

Pier Serial No.

Frequency (Min. or Gals.)

Sample Volume (ml)

Bar of Ind. Samples

Water Temp. (°C)

Gales Split with

SAMPLE
ID.001 QC
6R

11500

2532225322

00041 02

00020

00002

82048

.37

00067

7.04

3.5

13.5

00080

00480

00402

00081

00050

.135

11500

11500

21.8

7.01

7.00

4.01

10.01

A2023

7.81

21.5

7.40

7.80

7.90

7.90

10m1

.01

.50

.92

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Sample Progress Report

South Carolina DHEC
User: Cunningham, Tyra
Date: 03-23-2005 Time: 14:47:44

Sample ID: AB33072
Status: In validation queue
Purchase order number:
Project account code: MDL
Location code: SC31402G
Sample Collector: MARTIN B
Ref_number:

Date collected: 03/22/05 12:00
Date submitted: 03/22/05 13:22
Due date: 05/06/05 00:00
Specification checking: on
Descript: 001 PINEY GROVE UT/LLOYDWOOD
Login record file: 032205
Sample_type: GR3

Analysis

A-1 Fecal Coliform

End of progress report on sample: AB33072

Viol	Result	Unit	Finished	Anl
	30000	cnt/100mL	03/23/05	TJC

BOARD:
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Vice Chairman

L. Michael Blackmon
Secretary



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Promoting and protecting the health of the public and the environment.

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Coleman F. Buckhouse, MD

June 23, 2005

HAND DELIVERY

Mr. Louis H. Lang, Esq.
Callison Tighe Robinson LLC
1812 Lincoln Street
Columbia, SC 29201

RE: **Emergency Order # 05-073-W**
River Pines Water Systems, Inc.
Woodforest Subdivision WWTF
NPDES Permit SC0035661
York County

Dear Mr. Lang:

Enclosed, please find fully executed Emergency Order # 05-073-W for the above referenced facility. The Order is considered executed on June 23, 2005.

If you have any questions, please contact me at (803) 898-4273 or by e-mail at Matthew Penn at (803) 898-3354.

Sincerely,

Robert L. Proctor
Water Enforcement Division
Bureau of Water

cc: Al Williams, Catawba District EQC Office
Mike Montebello, BOW Domestic Wastewater Permitting
Matthew Penn, Office of General Counsel

EXHIBIT RLP 9

STATE OF SOUTH CAROLINA
DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL
EMERGENCY ORDER

05-073-W

WHEREAS the South Carolina Department of Health and Environmental Control (DHEC) is an agency of the State authorized and directed to implement the provisions of the Federal Clean Water Act, 33 U.S.C. §§1251 *et seq.*; the S.C. Pollution Control Act, S.C. Code of Laws § 48-1-10 to -350 (1987 and Supp. 2004); S.C. Code of Laws § 44-1-140, and S.C. Code of Laws, Regulations 61-46, 61-56 and 61-9; and

WHEREAS DHEC is authorized to make separate orders to meet any emergency not provided for by general rules and regulations, for the purpose of suppressing nuisances dangerous to the public health. See S.C. Code of Laws § 44-1-140; and S.C. Code of Laws, Regulation 61-46; and

WHEREAS River Pines Water System, Inc. (RPWS), Post Office Box 22023, Charleston, South Carolina 29413, owns and operates a wastewater treatment facility (WWTF) and wastewater collection system (WWCS) serving the residences in the Woodforest Subdivision, located in York County, South Carolina; and

WHEREAS DHEC issued National Pollutant Discharge Elimination System (NPDES) Permit SC0035661, effective October 1, 2000, authorizing RPWS to discharge treated wastewater into an unnamed tributary to Big Dutchman Creek, in accordance with the effluent limitations, monitoring requirements and other conditions as set forth therein; and

WHEREAS Woodforest Subdivision is supplied with potable water by a public water system operated by the City of Rock Hill; and

WHEREAS, on May 27, 2005, DHEC executed Administrative Order 05-063-W ordering, *inter alia*, RPWS to properly operate and maintain its WWTF and its WWCS, in accordance with all applicable State and Federal regulations; and

WHEREAS on June 8, 2005, DHEC personnel received a call from Mr. David Windburn, the operator of record for the WWTF, notifying the Department that, as of Sunday June 5, 2005, he ceased operating the WWTF due to non-payment for services by RPWS; and

WHEREAS as of June 5, 2005, RPWS was operating the WWTF without a S.C. Certified operator of the appropriate grade, as required by the NPDES permit; did not have a S.C. approved laboratory to analyze all permitted requirements; were not disinfecting the effluent with chlorine; and

WHEREAS on June 9, 2005, DHEC personnel performed a Facility Evaluation Inspection (FEI) of RPWS' WWTF, and the facility was rated Unsatisfactory for inadequate aeration; improper cleaning of the bar screen and solids discharging into the aeration basin; a dissolved oxygen

(DO) level of 1.05 milligrams of DO per liter of water; no chlorine being added for disinfection; and, septic odors present at the WWTF. During this inspection DHEC personnel posted the receiving stream warning the public of a potential health hazard; and,

WHEREAS, on June 10, 2005, the Department received a call from David Windburn that he had received some payment from RPWS and that he was again operating the WWTF; and

WHEREAS on June 13, 2005, DHEC personnel performed a FEI and initiated a Compliance Sampling Inspection (CSI) of the WWTF. The FEI rated the WWTF as unsatisfactory for improper cleaning and maintenance of the bar screen and solids discharging into the aeration basin; inadequate aeration; solids being present in the effluent; no chlorine being added for disinfection; a DO level of 0.63 milligrams of DO per liter of water; and, septic odors present at the WWTF; and,

WHEREAS on June 14, 2005, DHEC personnel performed a FEI and retrieved the composite samples collected during the first twenty-four (24) period of the CSI initiated on June 13, 2005. The FEI rated the facility as unsatisfactory for improper cleaning and maintenance of the bar screen and solids discharging into the aeration basin; inadequate aeration; solids being present in the effluent; no chlorine being added for disinfection; a DO level of 0.64 milligrams of DO per liter of water; septic odors present at the WWTF; and, the WWTF was visibly discharging solids to the unnamed tributary to Big Dutchman Creek;

WHEREAS on June 15, 2005, DHEC personnel performed a FEI and retrieved the composite samples collected during the second twenty-four (24) period of the CSI initiated on June 14, 2005. The FEI rated the facility as unsatisfactory for improper cleaning and maintenance of the bar screen and solids discharging into the aeration basin; inadequate aeration; solids being present in the effluent; no chlorine being added for disinfection; a DO level of 0.19 milligrams of DO per liter of water; septic odors present at the WWTF; and, the WWTF was visibly discharging solids to the unnamed tributary to Big Dutchman Creek;

WHEREAS samples collected during the CSI and FEIs performed at the WWTF for the June 13, 2005, through June 15, 2005, period, produced results of greater than or equal to one hundred and sixty thousand (160,000) colonies of fecal coliform bacteria for all three (3) days of the inspections; total suspended solids (TSS) level of two hundred and twenty milligrams per liter (220 mg/l) and biochemical oxygen demand (BOD) levels of two hundred milligrams of BOD per liter (200 mg/l) for the June 13, 2005, through June 14, 2005, monitoring period; and TSS levels of one hundred and thirty milligrams suspended solids per liter of water (130 mg/l) and BOD levels of two hundred milligrams of BOD per liter (200 mg/l) for the June 14, 2005, through June 15, 2005, monitoring period;

WHEREAS on June 20, 2005, DHEC personnel received a call from Mr. David Windburn, the operator of record for the WWTF, notifying the Department that checks received from RPWS

and referenced above had been returned for insufficient funds and that as of Sunday June 20, 2005, he ceased operating the WWTF due to non-payment for services; and,

WHEREAS on June 20, 2005, DHEC personnel performed a FEI of the WWTF. The facility was rated unsatisfactory for improper cleaning and maintenance of the bar screen and solids discharging into the aeration basin; in adequate aeration; solids being present in the effluent; no chlorine being added for disinfection; a DO level of 0.66 milligrams of DO per liter of water; septic odors present at the WWTF; the WWTF was visibly discharging solids to the unnamed tributary to Big Dutchman Creek; and, failure to provide for daily visits by a certified operator of appropriate grade as required by the NPDES Permit; and

WHEREAS it is the responsibility of RPWS to properly operate and maintain the WWTF and ensure that the effluent discharge limits for all parameters are met and are monitored in accordance with the requirements of the NPDES permit; and

WHEREAS upon information and belief, the residences at Woodforest Subdivision are occupied for more than two (2) hours per day and are therefore required by R.61-56 to have approved facilities for treatment and disposal of sewage; and

WHEREAS information obtained by DHEC personnel reveal that the nature and amount of wastewater being discharged from this WWTF has created a nuisance and health hazard for residents of Woodforest Subdivision, the adjacent property, which is another subdivision not serviced by the WWTF, and for children and other persons who may come in contact with such waste through play in and about the area; and

WHEREAS DHEC finds that this flow of wastewater on and about Woodforest Subdivision and into the unnamed tributary to Big Dutchman Creek and Big Dutchman Creek itself represents an immediate threat to the health and welfare of the residences of both the Woodforest Subdivision and adjacent subdivisions in the immediate vicinity of the Woodforest Subdivision and to occupants therein; and

WHEREAS The Department has authority to make, revoke or modify orders requiring the discontinuance of the discharge of sewage, industrial waste or other wastes into any waters of the State, or the discharge of air contaminants into the air so as to create an undesirable level, resulting in pollution in excess of the applicable standards established. Such Orders shall specify the conditions and time within which such discontinuance must be accomplished. S.C. Code

Ann. § 48-1-50(3) (Supp. 2004); and

WHEREAS "It shall be unlawful for any person to operate an approved waste disposal facility in violation of the conditions of the permit to construct or the permit to discharge." S.C. Code Ann. § 48-1-110(d) (Supp. 2004); and

WHEREAS the Pollution Control Act, S.C. Code Ann. § 48-1-110 (d)(Supp. 2004) and Water Pollution Control Permits, 24 S.C. Code Ann. Regs. 61-9.122.41(a) and (e)(Supp. 2004), require

RPWS to at all times properly operate and maintain in good working order all units of treatment and control at its WWTF; to perform daily, monthly and quarterly monitoring; and, to comply with permitted discharge limits for fecal coliform bacteria, total suspended solids, and biochemical oxygen demand in accordance with Part I.A(1) (Effluent Limitations); Part II.A.1 (General Requirements); Part II.B.2 (Twenty-Four Hour Non-Compliance Reporting) (entire section); Part II.C (1), (3), (4), and (5) (Operation and Maintenance); Part III.B (Additional Operational Requirements) (entire section).

WHEREAS "whatever is dangerous to human health, whatever renders the ground, air, or food a hazard or injury to human health, and the following acts, conditions, and things, whenever, in the opinion of the local health director they are dangerous to the public health, are each and all of them hereby declared to constitute a public health nuisance: (g) The discharge of sewage, garbage, or any other organic filth into or upon any place in such a manner that transmission of infective material to human beings may result therefrom." S.C. Code of Laws Regs. 61-46, Section 1(g) (1976); and

WHEREAS "Each dwelling unit, building, business or other structure occupied for more than two (2) hours per day shall be provided with approved facilities for the treatment and disposal of sewage." S.C. Code of Laws Regs. 61-56, Section III(A) (1976); and

WHEREAS "It shall be unlawful for any person, directly or indirectly, to throw, drain, run, allow to seep or otherwise discharge into the environment of the State organic or inorganic matter, including sewage . . . except as in compliance with a permit issued by the Department." S.C. Code of Laws § 48-1-90(a); and

WHEREAS "the Department may make separate orders and rules to meet any emergency not provided for by general rules and regulations, for the purpose of suppressing nuisances dangerous to the public health and communicable, contagious and infectious diseases and other danger to the public life and health." S.C. Code of Laws § 44-1-140 (2002); and

NOW THEREFORE IT IS ORDERED that pursuant to SC Code §44-1-140, 48-1-110 and R.61-56 and 61-9, River Pines Water System, Inc. shall immediately hire a South Carolina certified operator of appropriate grade, which in this case is an operator with a grade of B Biological; deliver to the Department a notarized statement from the hired operator that a satisfactory financial relationship has been entered into; immediately begin and continue to properly operate and maintain its WWTF in accordance with the National Pollutant Discharge Elimination System (NPDES) Permit and all applicable State and Federal regulations.

AND IT IS SO ORDERED.

6-22, 2005
Columbia, SC


C. Earl Hunter
Commissioner

ORIGINAL

STATE OF SOUTH CAROLINA

FILED

IN THE COURT OF COMMON PLEAS

ELEVENTH JUDICIAL CIRCUIT

COUNTY OF LEXINGTON

2005 MAY 24 A 10: 21

Civil Case No.: 2005-CP-32-1319

BETH A. CARRIGG
CLERK OF COURT

South Carolina Department of Health and
Environmental Control,

Plaintiff,

vs.

Piney Grove Utilities, Inc.,

Defendant.

Order

This matter came before this Court upon Plaintiff South Carolina Department of Health and Environmental Control's (Department) Motion for A Temporary Injunction. A hearing on the Department's motion was held at the Lexington County Courthouse on April 22, 2005. The Department was granted authority to operate the Lloydwood facility for one week. Piney Grove Utilities later agreed to a one week extension. A hearing was then scheduled for Friday, May 6, 2005, at the Edgefield County Courthouse. Appearing for the Department was Matthew S. Penn, Esq., and appearing for Piney Grove Utilities, Inc., was Louis Lang, Esq.

As a result of a prehearing meeting, the parties have entered into the following agreement which the Court has approved:

1. The Department agrees to continue providing an operator for the Lloydwood wastewater treatment facility (Lloydwood WWTF) until 5 p.m. on Monday, May 8, 2005.
2. Piney Grove Utilities agrees to attempt to enter into a financially viable relationship with a certified operator approved by the Department. If Piney Grove Utilities does not enter into a financially viable relationship with a certified operator approved by the Department by 5 p.m. on Monday, May 8, 2005, the Court will appoint a receiver for the Lloydwood WWTF and collection system. The Court will appoint a receiver at such time that the Department files a motion to appoint a receiver.
3. The receiver appointed by the Court will have authority over the regulatory and business

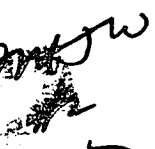
operation of the Lloydwood WWTF and collection system, including but not limited to compliance with the Department requirements and collection of user fees from the Lloydwood customers. Piney Grove Utilities' other assets and businesses will not be affected by the appointment of the Lloydwood receiver.

4. The Department agrees to be responsible for finding the receiver appointed by the Court, and the Department will continue providing an operator until the Court appoints a receiver.
5. Regarding the Department's request for Piney Grove to pay user fees collected for the Lloydwood WWTF to the Court to be held in escrow to cover the cost of proper operation and maintenance of the Lloydwood WWTF system, the parties agree that the Department can seek such payment from the receiver if the Court appoints a receiver. If Piney Grove enters into a financially viable relationship with a certified operator approved by the Department, the parties agree that the Court can consider this issue at a later date.

IT IS SO ORDERED!



The Honorable Marc H. Westbrook
Eleventh Judicial Circuit
Lexington County


May 20, 2005

Lexington County, South Carolina

BOARD:
Elizabeth M. Hagood
Chairman

Edwin H. Cooper, III
Vice Chairman

L. Michael Blackmon
Secretary



C. Earl Hunter, Commissioner

Promoting and protecting the health of the public and the environment.

May 4, 2005

BOARD:

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Steven G. Kisner

Paul C. Aughtry, III

Coleman F. Buckhouse, MD

CERTIFIED MAIL 7004 2510 0000 1886 0048
RETURN RECEIPT REQUESTED

Privileged Settlement Communication

Mr. Louis H. Lang, Esquire
Callison Tighe & Robinson, LLC
1812 Lincoln Street
Columbia, SC 29201

**Re: Notice of Alleged Violation /Notice of Enforcement Conference and
Proposed Consent Order
Lloydwood Subdivision WWTF
NPDES Permit SC0031402
Lexington County**

Dear Mr. Lang:

Enclosed is a proposed Consent Order alleging Findings of Fact supporting Conclusions of Law that Piney Grove Utilities, Inc./Lloydwood Subdivision and D. Reece Williams, IV, Individually (Respondents) have violated the Pollution Control Act, Water Pollution Control Permits, and Water Classifications and Standards as explained below.

This Order is proposed pursuant to the Pollution Control Act, S.C. Code Ann. § 48-1-50 (1987), which authorizes the Department to conduct studies and investigations with respect to pollution abatement or control, issue orders and assess monetary penalties. Please affix the appropriate signatures, date, and return the document to the Department by June 1, 2005. A copy of the fully executed Order will be returned to you.

If you wish to dispute the Findings of Fact and/or Conclusions of Law, you should call me at the number below or plan to attend the scheduled conference to discuss these matters. You are further notified that your failure to return the signed Order or to attend the conference will likely result in the issuance of an Administrative Order without your consent.

EXHIBIT RLP 11

If you have any questions concerning this matter, you may telephone me at (803) 898-4273. I will be glad to assist you.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert L. Proctor".

Robert L. "Lee" Proctor
Project Manager
Water Enforcement Division
Bureau of Water

cc: Jaime Teraoka, WP Enforcement/Compliance Section
Tracey Wilkes, Central Midlands District EQC
Larry Boland, Central Midlands District EQC
Matthew Penn, Office of General Counsel
D. Reece Williams, IV, via telecopy

**STATE OF SOUTH CAROLINA
BEFORE THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL**

**IN RE: PINEY GROVE UTILITIES, INC.
LLOYDWOOD SUBDIVISION WASTEWATER TREATMENT FACILITY and
D. REECE WILLIAMS, IV, INDIVIDUALLY
LEXINGTON COUNTY**

NOTICE OF ALLEGED VIOLATION/NOTICE OF ENFORCEMENT CONFERENCE

Piney Grove Utilities, Inc./Lloydwood Subdivision Wastewater Treatment Facility (WWTF) and D. Reece Williams, IV, Individually (Respondents) are **HEREBY NOTIFIED** that an enforcement conference has been scheduled for Wednesday, June 1, 2005 at 10:30 AM in Room 4160, located in the Bureau of Water, at 2600 Bull Street, Columbia, South Carolina. Representatives of the Respondents will have the opportunity to be present at this conference to discuss the alleged violations of the Pollution Control Act of South Carolina, Water Pollution Control Permits, and the South Carolina Water Classifications and Standards cited herein.

Representatives of the Respondents may be accompanied at the conference by legal and/or technical counsel. The possibility of the issuance of a Consent Order will be discussed.

This Notice is based upon the following findings of the Department:

1. The Respondents own and are responsible for the proper operation and maintenance of a WWTF serving the Residents of the Lloydwood Subdivision located off of Highway 321 in Lexington County, South Carolina.
2. The South Carolina Department of Health and Environmental Control (Department) issued NPDES Permit SC0031402, effective May 1, 1994, authorizing the Respondents to discharge treated wastewater into an unnamed tributary to Dry Creek to the Congaree River, in accordance with the effluent limitations, monitoring requirements and other conditions as set forth therein.
3. Piney Grove Utilities, Inc., is not a separate and distinct entity, but is merely a facade for the operations of the dominant shareholder, D. Reece Williams, IV.
4. On February 28, 2005, Department staff received a facsimile from Mr. Keith A. Murphy, of E.A. Services, which stated that effective March 1, 2005, E.A. Services would no longer be the operator of record at the Respondent's WWTF. Attached with Mr. Murphy's facsimile was a letter dated February 15, 2005, from Mr. Henry H. Taylor, attorney for E.A. Services, advising the Respondents that effective March 1, 2005, E.A. Service would not be operating the their WWTF on a daily basis.

5. On March 1, 2005, Department staff issued a letter to the Respondents, in care of Louis H. Lang as the Registered agent for the Respondents, requesting that the Respondents provide the Department with the following information:
- a) The date a new operator assumed responsibility for the WWTF;
 - b) The full name of the operator(s);
 - c) The type (biological or physical chemical) of South Carolina (S.C.) Operator's License held by the operator;
 - d) The grade of the S.C. Operator's License (a grade of "C" biological is required by the NPDES Permit);
 - e) The number of the S.C. Operator's License; and,
 - f) The S.C. Laboratory Identification Number of the Operator of Lab responsible for collection of daily parameters and sample analysis.

The letter also stated that it is the permittee's responsibility to comply with all conditions of the NPDES Permit and make the Department aware of any changes as they occur. Neither the Respondents nor their Registered agent have responded to the Department's letter with the requested information.

6. On March 11, 2005, Department staff received a letter from Mr. Lang stating that he was in receipt of the Department's March 1, 2005 letter to Mr. D. Reece Williams in care of himself. In his letter, Mr. Lang requested that all future letters be forward directly to the appropriate individuals at any of the utilities which he represents.

7. On March 22, 2005, Department staff performed a routine facility evaluation inspection (FEI) of the Respondents' WWTF. The facility was rated as unsatisfactory for the following reasons:

- a) There are excessive odors present at the facility.
- b) There continues to be a heavy mat of duckweed is covering the WWTF.
 - c) There are trees growing in the WWTF and on the WWTF's dikes; the fence; and, over hanging the roads around the WWTF.
 - d) The chlorine room is not properly ventilated creating a health hazard.
 - e) There was no operator's logbook or records indicating daily visits to the facility by an operator of appropriate grade ("C" biological).
 - f) The flow recorder was not functioning properly for the following reasons:
 - a) The chart recorder was not advancing or registering the current flow reading;
 - b) The recorder pen had worn a hole in the paper that was in the recorder; and,
 - c) The recorders accuracy could not be determined due to the paper not moving and the hole created by the recorder pen.
 - g) A fecal coliform bacteria sample was collected from the final effluent during the inspection. Analytical results were thirty thousand (30,000) colonies per 100 milliliters of water indicating the lack of proper disinfection.
 - h) There was no chlorine at the WWTF during the inspection.

The Department notified the Respondents via certified mail of the findings of the inspection and requested a written response by March 31, 2005. To date the Respondents have not responded to the Department's request.

8. On April 7, 2005, Department staff attempted to perform a follow up FEI at the Respondents' WWTF. Upon arriving at the WWTF Department staff noted that the locks on the main entrance to the WWTF had been changed. The Department's inspector contacted personnel in the Department's Water Pollution Enforcement Division to determine if entry could be arranged. The Respondents denied Department staff access to the facility. Mr. Deleon Andrews of the Office of Labor, Licensing, and Regulation, under the direction of Department staff, entered the WWTF by climbing over the fence and collected a fecal coliform bacteria sample from the WWTF's effluent. The analytical results of the sample were thirty thousand (30,000) colonies per 100 milliliters of water collected indicating the lack of proper disinfection.
9. On April 8, 2005, Mr. Mark Wrigley of Wrigley and Associates, acting as an agent for the Respondent, met with Department personnel at the WWTF. Mr. Wrigley stated that he had changed the locks to the WWTF and the chlorine building at the request of Mr. D. Reece Williams, IV. Mr. Wrigley also stated that he was not the operator of record for the WWTF but that he was negotiating a contract with the Respondents. Department staff performed a follow up FEI of the WWTF and noted that none of the deficiencies noted during the FEI of March 22, 2005, had been corrected. Photographs were taken of the WWTF and the receiving stream.
10. On April 14, 2005, the Department issued Emergency Order (EO) Number 05-040-W to the Respondents. The Order requires the Respondents to: immediately hire an operator of appropriate grade to perform daily inspections of the WWTF and immediately begin and continue to properly operate and maintain the WWTF in accordance with the NPDES Permit and State and Federal Regulations. To date the EO has not been complied with by the Respondent.
11. On April 15, 2005, Department staff posted the receiving stream advising the public of the potential health hazards posed by the partially treated wastewater entering the stream.
12. On April 26, 2005, Department staff received a letter from Ms. Rita Foxworth stating that as of April 21, 2005 she had taken over the daily operations of the Respondents' WWTF.

From the above findings, the Department alleges that the Respondent has violated the Pollution Control Act of South Carolina, Water Pollution Control Permits, and South Carolina Water Classifications and Standards as follows:

1. **The Pollution Control Act, S.C. Code Ann. § 48-1-40 (Supp. 2004), authorizes the Department, after public hearing, to adopt standards and determine what qualities and properties of water and air shall indicate a polluted condition, to promulgate these standards and make them part of the rules and regulations of the Department.**

2. The Pollution Control Act, S.C. Code Ann. § 48-1-50(3) (Supp. 2004), authorizes the Department to make, revoke, and modify Orders to establish compliance with State and Federal regulations.
3. The Pollution Control Act, S.C. Code Ann. § 48-1-60 (Supp. 2004), authorizes the Department to, after proper study and conducting a public hearing upon due notice, adopt rules and regulations and classification standards.
4. The Pollution Control Act, S.C. Code Ann. § 48-1-70 (Supp. 2004), authorizes the Department to adopt standards for water, which prescribe the extent to which floating solids may be permitted in the water; the extent to which suspended solids, colloids, or a combination of solids with other substances suspended in water may be permitted; the extent to which organisms of the coliform group or any other bacteriological organism may be permitted in water; the extent of the oxygen which may be required in receiving waters; and, such other physical, chemical, or biological properties as may be necessary for the attainment of the objectives of this chapter.
5. The Respondent violated Water Classifications and Standards, 25 S.C. Code Ann. Regs. 61-68 (E)(5) (c) and (d) and (G)(10)(b) and (e) (Supp. 2004), in that it failed to keep waters of the State free from deleterious materials that interfere with classified and/or existing water uses.
6. The Respondent violated the Pollution Control Act, S.C. Code Ann. § 48-1-110 (d)(Supp. 2004) and Water Pollution Control Permits, 24 S.C. Code Ann. Regs. 61-9.122.41(a) and (e)(Supp. 2004), in that the Respondent failed to at all times properly operate and maintain in good working order all units of treatment and control at its WWTF; failed to perform monthly monitoring; and, failed to comply with permitted discharge limits for fecal coliform bacteria in accordance with its NPDES Permit.
7. The Respondent violated the Pollution Control Act, S.C. Code Ann. § 48-1-110 (d)(Supp. 2004) and Water Pollution Control Permits, 24 S.C. Code Ann. Regs. 61-9.122.41(h) and (l)(4) (Supp. 2004), in that the Respondent failed to respond to Department requests for information in a timely manner and failed to submit the monthly discharge monitoring reports for December 2004 through March 2005 as required by the NPDES Permit.
8. The Respondent violated the Pollution Control Act, S.C. Code Ann. § 48-1-90(a)(1987), in that it discharged untreated wastewater into the environment in a manner not in compliance with a permit issued by the Department.
9. The Pollution Control Act, S.C. Code Ann. § 48-1-330 (1987), provides for a civil penalty not to exceed ten thousand dollars (\$10,000.00) per day of violation for any person violating the Act or any rule, regulation, permit, permit condition, final determination, or Order of the Department.

The Respondent IS FURTHER NOTIFIED that failure to attend the scheduled enforcement conference may result in the issuance of an Administrative Order without your consent. Such an Order may contain the above findings and may impose monetary penalties.

This Notice is made pursuant to the Pollution Control Act, S.C. Code Ann. § 48-1-50 (1987) and S.C. Code Ann. § 48-1-330 (1987), which authorize(s) the Department to issue Orders and assess monetary penalties.



Robert L. "Lee" Proctor
Project Manager
Enforcement Section
Water Enforcement Division
Bureau of Water

BOARD:
Elizabeth M. Hagood
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Edwin H. Cooper, III
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L. Michael Blackmon
Secretary



C. Earl Hunter, Commissioner
Promoting and protecting the health of the public and the environment.

BOARD:
Carl L. Brazell
Steven G. Kisner
Paul C. Aughtry, III
Coleman F. Buckhouse, MD

June 29, 2005

HAND DELIVERED

Mr. Louis H. Lang, Esquire
Callison Tighe Robinson LLP
Post Office Box 1390
Columbia, SC 29202-1390

RE: **Administrative Order 05-077-W**
Piney Grove Utilities, Inc.
Lloydwood Subdivision WWTF
NPDES Permit SC0035661
York County

Dear Mr. Lang:

Enclosed is the fully executed Administrative Order 05-077-W affecting Piney Grove Utilities, Inc./Lloydwood Subdivision. The execution date of this Order is June 29, 2005.

This decision may be appealed to the Administrative Law Court (ALC) by complying with the following requirements of the ALC:

1. File a request for a contested case hearing with the Clerk of the Administrative Law Court at the following address within 30 days after notice of this decision:

Clerk, Administrative Law Court
1205 Pendleton Street, Suite 224
P. O. Box 11667
Columbia, SC 29211
803-734-0550

The ALC has a Notice of Request for Contested Case Hearing form that may be used, but is not required. The form and the Rules of the ALC can be found at the ALC's website: <http://www.scalc.net>.

A request for a contested case hearing must contain the following information pursuant to ALC Rule 11:

EXHIBIT RLP 12

**THE STATE OF SOUTH CAROLINA
BEFORE THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL**

**IN RE: PINEY GROVE UTILITIES, INC.
LLOYDWOOD SUBDIVISION WASTEWATER TREATMENT FACILITY
LEXINGTON COUNTY**

**ADMINISTRATIVE ORDER
05-077-W**

Piney Grove Utilities, Inc. (Respondent) owns and is responsible for the proper operation and maintenance of a wastewater treatment facility (WWTF) serving the residents of the Lloydwood Subdivision (Site) located off of Highway 321 in Lexington County, South Carolina.

The Respondent violated the Pollution Control Act, S.C. Code Ann. § 48-1-10 to -350 (1987 and Supp. 2004), Water Classifications and Standards, 25 S.C. Code Ann. Regs. 61-68 (Supp. 2004) and National Pollutant Discharge Elimination System (NPDES) Permit SC0031402, in that it failed to provide an operator of appropriate grade to perform daily visits as required in their NPDES Permit. The Respondent failed to collect daily, monthly and quarterly monitoring as required in its NPDES Permit. The Respondent failed to submit administratively complete discharge monitoring reports for the December 2004, January 2005, February 2005, March 2005 and April 2005 monitoring periods as required in its NPDES Permit. The Respondent failed to respond in a timely manner to Department requests for information or corrective actions at the WWTF as required in its NPDES Permit. The Respondent denied Department personnel access to the WWTF during normal business hours as provided for in its NPDES Permit. The Respondent also failed to properly disinfect the effluent being discharged from its WWTF resulting in adverse impacts to waters of the State.

- c) The type (biological or physical chemical) of South Carolina (S.C.) Operator's License held by the operator;
- d) The grade of the S.C. Operator's License (a grade of "C" biological is required by the NPDES Permit);
- e) The number of the S.C. Operator's License; and,
- f) The S.C. Laboratory Identification Number for the operator or lab responsible for collection of daily parameters and sample analysis.

The letter also reiterated that it is the Respondent's responsibility to comply with all conditions of the NPDES Permit and to make the Department aware of any changes as they occur.

- 6. To date, the Respondent has not provided the Department with the requested information, as set forth in Paragraph 5 above.
- 7. On March 22, 2005, Department staff performed a routine Facility Evaluation Inspection (FEI) of the Respondent's WWTF. The WWTF was rated Unsatisfactory for the following deficiencies:
 - a) There were excessive odors present at the facility.
 - b) There continued to be a heavy mat of duckweed covering the WWTF.
 - c) There were trees growing in the WWTF and on the WWTF's dikes, the fence, and over hanging the roads around the WWTF.
 - d) The chlorine room was not properly ventilated creating a health hazard.
 - e) There were no operator's logbook or records indicating daily visits to the facility by an operator of appropriate grade ("C" biological).

in the Department's Water Pollution Enforcement Division to determine if entry could be arranged. The Respondent denied Department staff access to the facility.

9. On April 8, 2005, Mr. Mark Wrigley of Wrigley and Associates, acting as an agent for the Respondent, met with Department personnel at the WWTF. Mr. Wrigley stated that he had changed the locks to the WWTF and the chlorine building at the request of Mr. D. Reece Williams, IV. Mr. Wrigley also stated that he was not the operator of record for the WWTF but that he was negotiating a contract with the Respondent to become the operator. On that date, Department staff performed a follow up FEI of the WWTF and noted that none of the deficiencies noted during the FEI of March 22, 2005, had been corrected.
10. On April 14, 2005, the Department issued Emergency Order (EO) Number 05-040-W to the Respondent. The Order requires the Respondent to: immediately hire an operator of appropriate grade to perform daily inspections of the WWTF and immediately begin and continue to properly operate and maintain the WWTF in accordance with the NPDES Permit and State and Federal Regulations. The EO was not appealed and to date the EO has not been complied with by the Respondent.
11. On April 15, 2005, Department staff posted the unnamed tributary to Dry Creek and Dry Creek itself advising the public of the potential health hazards posed by the partially treated wastewater entering the stream.
12. On April 22, 2005, the Department filed a complaint with the Court of Common Pleas for the Eleventh Judicial Circuit against the Respondent requesting an injunction from the Court to allow the Department or a certified operator hired by the Department to enter the WWTF by whatever means to properly operate the WWTF systems in accordance with the NPDES

- b) Piney Grove Utilities agrees to attempt to enter into a financially viable relationship with a certified operator approved by the Department. If Piney Grove Utilities does not enter into a financially viable relationship with a certified operator approved by the Department by 5 p.m. on Monday, May 8, 2005, the Court will appoint a receiver for the Lloydwood WWTF and collection system. The Court will appoint a receiver at such time that the Department files a motion to appoint a receiver.
- c) The receiver appointed by the Court will have authority over the regulatory and business operation of the Lloydwood WWTF and collection system, including but not limited to compliance with the Department requirements and collection of user fees from the Lloydwood customers. Piney Grove Utilities' other assets and businesses will not be affected by the appointment of the Lloydwood receiver.
- d) The Department agrees to be responsible for finding the receiver appointed by the Court, and the Department will continue providing an operator until the Court appoints a receiver.
- e) Regarding the Department's request for Piney Grove to pay user fees collected for the Lloydwood WWTF to the Court to be held in escrow to cover the cost of proper operation and maintenance of the Lloydwood WWTF system, the parties agree that the Department can seek such payment from the receiver if the Court appoints a receiver. If Piney Grove enters into a financially viable relationship with a certified operator approved by the Department, the parties agree that the Court can consider this issue at a later date.

The Department is in the process of locating a receiver for the Respondent's WWTF and

3. The Pollution Control Act, S.C. Code Ann. § 48-1-60 (1987), authorizes the Department to, after proper study and conducting a public hearing upon due notice, adopt rules and regulations and classification standards.
4. The Pollution Control Act, S.C. Code Ann. § 48-1-70 (1987), authorizes the Department to adopt standards for water, which prescribe the extent to which floating solids may be permitted in the water; the extent to which suspended solids, colloids, or a combination of solids with other substances suspended in water may be permitted; the extent to which organisms of the coliform group or any other bacteriological organism may be permitted in water; the extent of the oxygen which may be required in receiving waters; and, such other physical, chemical, or biological properties as may be necessary for the attainment of the objectives of this chapter.
5. The Respondent violated Water Classifications and Standards, 25 S.C. Code Ann. Regs. 61-68 (E)(5) (c) and (d) and (G)(10)(b) and (e) (Supp. 2004), in that it failed to keep waters of the State free from deleterious materials that interfere with classified and/or existing water uses.
6. The Respondent violated the Pollution Control Act, S.C. Code Ann. § 48-1-110 (d)(Supp. 2004) and Water Pollution Control Permits, 24 S.C. Code Ann. Regs. 61-9.122.41(a) and (e)(Supp. 2004), in that the Respondent failed to at all times properly operate and maintain in good working order all units of treatment and control at its WWTF; failed to perform daily, monthly and quarterly monitoring; and, failed to comply with permitted discharge limits for fecal coliform bacteria in accordance with Part II.A.1.(a) and (b) (Standard Conditions), Part II.D (Duty to mitigate), Part II.E (1), (3), (4), and (5) (proper operation and maintenance),

PURSUANT TO THIS ORDER, communications regarding this Order and its requirements shall be addressed as follows:

Robert L. Proctor
Water Enforcement Division
South Carolina Department of Health and Environmental Control
2600 Bull Street
Columbia, South Carolina 29201

The Order number should be included on all checks remitted as payment of the civil penalty.

IT IS FURTHER ORDERED that failure to comply with any provision of this Order shall be grounds for further enforcement action pursuant to the Pollution Control Act, S.C. Code Ann. § 48-1-330 (1987), to include the assessment of additional civil penalties.

NOTICE IS HEREBY GIVEN that this decision may be appealed to the Administrative Law Court (ALC) by complying with the following requirements of the ALC:

1. File a request for a contested case hearing with the Clerk of the Administrative Law Court at the following address within 30 days after notice of this decision:

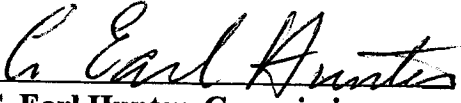
Clerk, Administrative Law Court
1205 Pendleton Street, Suite 224
P. O. Box 11667
Columbia, SC 29211
803-734-0550

The ALC has a Notice of Request for Contested Case Hearing form that may be used, but is not required. The form and the Rules of the ALC can be found at the ALC's website: <http://www.scalc.net>.

A request for a contested case hearing must contain the following information pursuant to ALC Rule 11:

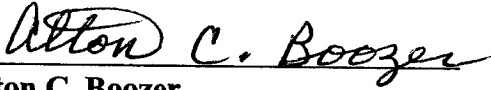
1. The name of the party requesting the hearing and the issue(s) for which the hearing is requested;
2. The caption or other information sufficient to identify the decision, order, letter, determination, action, or inaction which is subject to the hearing;
3. A copy of the written agency decision, order, letter or determination, if any, which gave rise to the request;

**THE SOUTH CAROLINA DEPARTMENT OF
HEALTH AND ENVIRONMENTAL CONTROL**



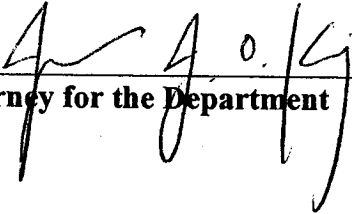
**C. Earl Hunter, Commissioner
South Carolina Department of
Health and Environmental Control**

Date: June 29, 2005



**Alton C. Boozer,
Bureau Chief
Bureau of Water**

Date: 29 June, 2005



Attorney for the Department

Date: June 29, 2005

Taylor & Ebener Law Firm, LLC

3618 Sunset Boulevard (Highway 378) • Suite D
West Columbia, South Carolina 29169

Henry H. Taylor
Mollie DuPriest Taylor
Kenneth W. Ebener

Telephone: (803) 926-2205
Facsimile: (803) 926-4966
Email: Firm@TaylorEbenerLaw.com

February 15, 2005

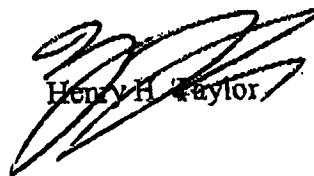
Mr. Reese Williams
Piney Grove Utilities
2 Fifth Avenue
Charleston, South Carolina 29403

**Re: Operation Fees due from Reese Williams, Piney Grove Utilities
to EA Services, Inc. with respect to operation fees for Lloydwood WWT?
Permit No.: SC0031402**

Dear Mr. Williams

I have been retained by EA Services, Inc. to represent it in the collection of an account due by you. I am enclosing herewith an itemized statement for services rendered by EA Services, Inc. with a present balance of \$11,191.00. This letter will serve as formal demand upon you that you pay this outstanding balance within ten (10) days of the date of this letter. Your failure to pay the outstanding balance within ten (10) days will result in EA Services discontinuing operation of the above referenced system and withholding analytical data and discharge monitoring reports until your account is brought current. Moreover, if you do not bring your account current within ten (10) days, I have been instructed to bring legal action against you on behalf of EA Services, Inc. to collect the outstanding balance. I trust that you will bring your account current within ten (10) days to avoid legal action on this matter. However, if we do not receive full payment within ten (10) days legal action will follow.

Sincerely,



Henry H. Taylor

HHT/tss
cc: Bill Watkins
Tracey Wilkes, SCDHEC

Page 2
Lloydwood Subdivision WWTF
March 1, 2005.

As for the December 2004, January and February 2005 discharge monitoring reports (DMR) and future DMR's, please be aware that these reports are due to the Department by the 28th day of the following operating month.

This letter will serve as notification that it is the permittee's responsibility to comply with all conditions of the NPDES permit and make the Department aware of any changes as they occur.

Should you have any questions, please contact Larry Boland or me at (803) 896-0620.

Sincerely,



D. Tracey Wilkes
Wastewater Evaluator
Central Midlands District

cc: Larry Boland, SCDHEC Central Midlands
Robin Foy, SCDHEC Enforcement
Matthew Penn, SCDHEC General Counsel

Rita Foxworth

R. Foxworth & Services
2270 Sand Hill Rd.
Turbeville, S.C. 29162

Telephone 843-858-3839 Mb. 803-473-0572

Fax Sheet

To: S.E. DHEC

Attn: Routon

Fax Number: 803-898-3795

Date: 5/18/05

Comments: Lloydwood S/D Water Treatment
Operational -

Number Of Pages 2

BOARD:
Elizabeth M. Hagood
Chairman
Edwin H. Cooper, III
Vice Chairman
L. Michael Blackmon
Secretary



C. Earl Hunter, Commissioner

Promoting and protecting the health of the public and the environment.

BOARD:
Carl L. Brazell
Steven G. Kisner
Paul C. Aughtry, III
Coleman F. Buckhouse, MD

July 29, 2005

CERTIFIED MAIL – 7004 2510 0000 1886 1861 and facsimile
RETURN RECEIPT REQUESTED

Mr. Louis H. Lang, Esquire
Callison Tighe Robinson, LLC
1812 Lincoln Street
Columbia, S. C. 29201

Re: Notice of Violation 04-007-W
Piney Grove Utilities, Inc./Lloydwood SD WWTF
Docket No. 03-ALJ-07-0215-CC
Consent Order of Dismissal 04-007-W
NPDES Permit # SC0031402
Lexington County

Dear Mr. Lang:

A review of the NPDES Permit file and the Enforcement file for the referenced facility above has found Piney Grove Utilities, Inc./Lloydwood Subdivision (PGU) to be in violation of the compliance schedule of Consent Order of Dismissal 04-007-W (Order) as executed on March 26, 2004 and approved by the Honorable Judge Ralph King Anderson on April 21, 2004.

Pursuant to the requirements of the Order, PGU was required to submit to the Public Service Commission of South Carolina (PSC), within sixty (60) days of execution of the Order, a contract for approval for sewer service with the regional provider for this area. To date, PGU has failed to comply with this requirement. The Order also contained actions to be taken if the PSC did not approve the contract or if the regional provider for the area refused to agree to a contract for submission to the PSC. To date, PGU has failed to comply with either of those options as well. The Order contained a suspended penalty in the amount of Thirty One Thousand Twenty-Four Dollars (\$31,024.00), which became due and payable when PGU failed to comply with any requirement of the Order.

You are hereby notified that failure to comply with the requirements of Consent Order of Dismissal 04-007-W is a violation of the Pollution Control Act, S.C. Code Ann. 48-1-130 (1987 and Supp. 2004). The violation makes PGU subject to further enforcement action, which may include assessment of additional civil penalties as set forth in the Pollution Control Act, S.C. Code Ann. 48-1-330 (1987).

EXHIBIT RLP 13

**SOUTH CAROLINA DEPARTMENT OF LABOR, LICENSING AND REGULATION
BEFORE THE ENVIRONMENTAL CERTIFICATION BOARD**

IN THE MATTER OF:

Rita W. Foxworth

Case# BL2002-12

License # Biological 4883

Respondent

**VOLUNTARY SURRENDER OF
LICENSE
(Public)**

WHEREAS, Respondent is licensed as a Biological Wastewater Treatment Operator and subject to the jurisdiction of the South Carolina Environmental Certification Board (hereinafter the Board); and

WHEREAS, the Department of Health and Environmental Control (DHEC) has determined that Respondent, while working as the operator of record at several sites, falsified required records from the Scenic Lake MHP WWTF, failed to perform sampling on the Cypress Pointe Condo Site at the required intervals, received unsatisfactory inspections and was given an overall unsatisfactory rating on the Goat Island site and reported incorrect or incomplete information on the Franklin Park Subdivision.

WHEREAS, the Department of Health and Environmental Control has cited Respondent in many inspections for her failure to properly maintain and operate sites under her control.

WHEREAS, Respondent has advised that she now wishes to permanently surrender her license to practice as a Biological Wastewater Treatment Operator in this State in lieu of a disciplinary proceeding.

WHEREAS, Respondent understands that she has the right to a hearing and to be represented by counsel in this matter. Respondent understands and agrees that by entering into this Voluntary Surrender, she voluntarily relinquishes any right to judicial review. Respondent freely, knowingly, and voluntarily waives any and all such rights and further proceedings in this matter; and

WHEREAS, IT IS FURTHER UNDERSTOOD AND AGREED that this Agreement does not satisfy, prejudice, or stay any disciplinary action which may be filed in the future.

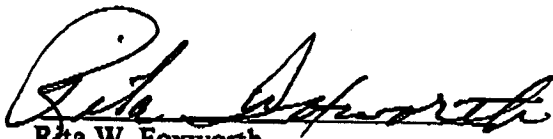
WHEREAS, it is understood and agreed that, pursuant to the South Carolina Freedom of Information Act, this is a public document.

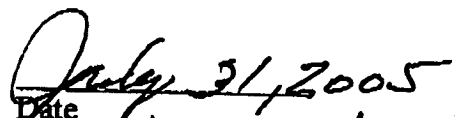

EXHIBIT RLP 14

THEREFORE, Respondent does hereby voluntarily and permanently surrender her right

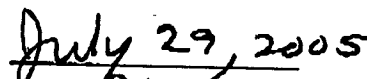
to practice as a Biological Wastewater Treatment Operator in South Carolina, effective immediately upon acceptance by the Board.


WE AGREE:

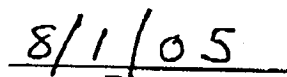

Rita W. Foxworth
RESPONDENT


Date July 31, 2005
Signed on 29th 


WITNESS OR ATTORNEY


Date


ATTORNEY - S.C. Department of
Labor, Licensing & Regulation


Date

ACCEPTED by the Board this
____ day of _____, 2005

**SOUTH CAROLINA ENVIRONMENTAL
CERTIFICATION BOARD**

Frankie Burden, Chairman